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RANDY A. GREGORY
GREGORY I.P. LAW
P.O. BOX 31090
SPOKANE, WA 99223-3018

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DEC 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Gould et al. :
Application No. 11/354,311 : Decision Refusing to Accord
Filed: February 14, 2006 : Status Under 37 CFR 1.47(a)
Attorney Docket No. ME1-002 :

This is a decision on the petition under 37 CFR 1.47(a), filed September 18, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

The instant petition fails to satisfy item (2) above.

Absent the filing of an Application Data Sheet (ADS), the declaration must list the mailing address and the residential address for each inventor. In the instant case, the address for Huggins would be his last known address. The declaration does not list a mailing address or residential address for Huggins. Therefore, the petition cannot be granted.

A supplemental declaration *or ADS* should be filed with the last known address information for Huggins.

As a courtesy, the Office notes an internet search indicates Huggins *may* currently reside at 1823 N. 8th Way, Ridgefield, WA 98642-9699.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Gary E. Huggins
14309 East 4th
Spokane Valley, WA 99126

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
Gould et al. :
Application No. 11/354,311 : Letter
Filed: February 14, 2006 :
Attorney Docket No. ME1-002 :

Mr. Huggins:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers in the file wrapper. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

General requests for information regarding the application should be directed to the File Information Unit at (703) 308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: RANDY A. GREGORY
GREGORY I.P. LAW
P.O. BOX 31090
SPOKANE, WA 99223-3018

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

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Debra L. Shade, et al. :
Application No. 11/354,326 : ON PETITION
Filed: February 14, 2006 :
Attorney Docket No. 1695 US FA :

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 22, 2007. On June 3, 2008, the present petition was filed, along with a Request for Continued Examination (RCE) under 37 CFR 1.114. The balance of fee required for a 3-month petition for extension of time was also submitted. A Notice of Abandonment was subsequently mailed on June 18, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $590 extension of time fee submitted with the petition on June 3, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE and fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JAMES M STODDARD
509 YAMPA AVENUE
CRAIG CO 81625

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
James Marshall Stoddard	:	
Application No. 11/354,330	:	ON PETITION
Filed: February 7, 2006	:	
Title: Illuminated Electrical Transformer / Power Supply	:	

This is in response to the paper titled "1.181 Petition to the Director to revive application", filed January 30, 2008, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

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

The above application became abandoned for failure to pay the file a proper reply to the non-final Office action mailed May 31, 2007. Applicant filed a reply on August 30, 2007. However, the reply lacked a signature. No further reply with an extension of time having been received, the application became abandoned on September 1, 2007. The Office mailed a Notice of Abandonment on January 24, 2008.

Applicant asks that the Office consider the Amendment, even without a signature. However, a signature is required by 37 CFR 1.4(d). A petition to withdraw the holding of abandonment under 37 CFR 1.181 is only appropriate in those situations where petitioner is contending

that the application is even abandoned to begin with (e.g. if petitioner contends that he did timely pay the issue fee, or never received the Notice of Allowance).

If petitioner admits that the application is in fact abandoned, but petitioner's contention involves the cause of the abandonment, then the appropriate remedy is a petition to revive pursuant to 37 CFR 1.137(a) or 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l), currently $255 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $770 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JAMES M STODDARD
509 YAMPA AVENUE
CRAIG CO 81625

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
James Marshall Stoddard :
Application No. 11/354,330 : ON PETITION
Filed: February 7, 2006 :
Title: Illuminated Electrical :
Transformer / Power Supply

This is in response to the petition to revive under 37 CFR 1.137(b), filed April 19, 2008.

The petition to revive is **GRANTED**.

The above application became abandoned for failure to pay the file a proper reply to the non-final Office action mailed May 31, 2007. Applicant filed a reply on August 30, 2007. However, the reply lacked a signature. No further reply with an extension of time having been received, the application became abandoned on September 1, 2007. The Office mailed a Notice of Abandonment on January 24, 2008. Applicant filed a petition to withdraw the holding of abandonment on January 30, 2008. However, the petition was dismissed in a decision mailed on February 19, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

With the instant petition, petitioner submitted $820 for the issue and publication fees. As the Office has not yet issued a Notice of Allowance, these fees are being refunded to petitioner under separate cover.

Furthermore, petitioner submitted a terminal disclaimer with the petition (but no fee). However, as a terminal disclaimer is not required to revive the application, it will not be entered. As the

instant application is an Image File Wrapper, the image of the terminal disclaimer is being closed to the public.

The matter is being forwarded to Group Art Unit 2875 for consideration of the Amendment filed April 19, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Ulrich Nolte	: DECISION ON REQUEST FOR
Patent Number	: 7641972	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/354,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **997** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OCT 23 2008

OFFICE OF PETITIONS

Ganz Law, P.C.
P.O. Box 2200
Hillsboro, OR 97123

In re Application of :
Darrell Griffin :
Application No. 11/354,347 : DECISION ON PETITION
Filed: February 13, 2006 : TO WITHDRAW
Attorney Docket No. EAS-2.016US : 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 15, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bradley M. Ganz does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Darrell Griffin
4570 Van Nuys Boulevard, Suite 302
Sherman Oaks, CA 91403

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

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APR 13 2009

OFFICE OF PETITIONS

In re Application of
William Taylor Laaser et al.
Application No. 11/354,348
Filed: February 14, 2006
Attorney Docket No. 50277-3445

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 9, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 73066 has been revoked by the Assignee of the patent application on February 23, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272- 4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: William Taylor Laaser	: DECISION ON REQUEST FOR
Patent Number	: 7606835	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **311** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Date : June 3, 2010

Patent No. :7704619
Ser. No. :11/354359
Inventor(s) : Yosuke Fuji et al.
Issued :April 27, 2010
Title :FUEL CELL SYSTEM AND METHOD OF CONTROLLING SAME

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(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 matter, is hereby denied.

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

A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1544

Lawrence T. Lu
Fish Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

/arg

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

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JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,704,619 :
Issue Date: April 27, 2010 :
Application No. 11/354,359 : ON PETITION
Filed: February 14, 2006 :
Attorney Docket No. **15682-019001 / OSP-19930** :

This is a decision on the petition filed June 15, 2010, 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 JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner'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.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/11/09

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11354370 Patent No.: 7198965 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9991

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

2822

PAGE 1/2 * RCVD AT 4/22/2009 12:00:22 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709990 * CSID:703 3087722 * DURATION (mm-ss):01-30

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/11/09

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11354370 Patent No.: 7198965 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Zalman Shah 2822

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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
11/354,395	02/14/2006	2881	1350	050315	5	23	4

CONFIRMATION NO. 8776

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000019413242

Date Mailed: 06/27/2006

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

Applicant(s)

Uppinder Singh Babbar, San Diego, CA;
Marcello Lioy, San Diego, CA;
Venkata Satish Kumar Vangala, Longmont, CO;

Power of Attorney: The patent practitioners associated with Customer Number **23696**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/694,724 06/27/2005

Foreign Applications

If Required, Foreign Filing License Granted: 03/14/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/354,395

Projected Publication Date: 12/28/2006

Non-Publication Request: No

Early Publication Request: No

Title

Block-based assignment of quality of service precedence values

Preliminary Class

250

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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DINSMORE & SHOHL LLP
One Dayton Centre
Suite 1300
One South Main Street
Dayton, OH 45402-2023

Mail Date: 04/21/2010

Applicant	: Jeffrey R. Hoffmann	: DECISION ON REQUEST FOR
Patent Number	: 7588631	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MOLD-MASTERS LIMITED
233 ARMSTRONG AVENUE
INTELLECTUAL PROPERTY DEPARTMENT
GEORGETOWN ON L7G-4X5 CA CANADA

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FEB 2 0 2007

OFFICE OF PETITIONS

In re Application of
FIECK, et al.
Application No. 11/354,416
Filed: February 15, 2006
Attorney Docket No. MMID 3596

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed March 13, 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 May 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of the additional claim fee of $50; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

This application is being referred to the Technology Center Art Unit 2853.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **TERESA U. MEDLER, ESQ.**
8607 ROCKDALE LANE
SPRINGFIELD, VA 22153

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HALLIBURTON ENERGY SERVICES, INC.
2600 S. 2ND STREET
DUNCAN, OK 73536-0440

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APR 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Chatterji et al.	:	
Application No. 11/354,418	:	ON PETITION
Filed: February 15, 2006	:	
Attorney Docket No. 2005-IP-018608U2	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a Declaration signed by the applicant, Jiten Chatterji. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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Halliburton Energy Services, Inc.
2600 S. 2nd Street
Duncan OK 73536-0440

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Chatterji, et al. :
Application No. 11/354,418 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. 2005-IP-018608U2 :
For: FOAMED TREATMENT FLUIDS
AND ASSOCIATED METHODS

This is a decision on the petition under 37 CFR 1.181, filed April 16, 2007 (certificate of mailing date April 13, 2007), 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 submit a reply to the September 8, 2006 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on December 9, 2006. A Notice of Abandonment was mailed March 26, 2007.

Petitioners allege that the September 8, 2006 non-final Office action was not received.

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]

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the September 8, 2006 non-final Office action been received. In addition,

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

practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the September 8, 2006 non-final Office action was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the holding of abandonment is withdrawn, and the March 26, 2007 Notice of Abandonment is **vacated**.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1712 for the re-mailing of the September 8, 2006 non-final Office action with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

Mail Date: 04/20/2010

Applicant	: David C. Holloway	: DECISION ON REQUEST FOR
Patent Number	: 7636097	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
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COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/3/08

Patent No. :7281946
Inventor(s) : Dino Nicoletta
Issued : 10/16/2007
Title : HERMETICALLY SEALED CERAMIC PACKAGE
Atty.doc./File No.

Request for Certificates of Correction

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

Inspection of the application for the patent reveals that item [73] is printed in accordance with the record and there need to be a indication on what the correct assignee should be. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

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

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

HENRY I. SCHANZER, ESQ.
29 BROOKFALL ROAD
EDISON, NJ 08817

HR/CBN

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HENRY I. SCHANZER
29 BROOKFALL RD.
EDISON NJ 08817

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MAY 29 2008

OFFICE OF PETITIONS

In re Patent No. 7281946 :
Issue Date: 10/16/2007 :
Application No. 11/354434 : ON PETITION
Filed: 02/15/2006 :
Attorney Docket No. NIC 1 :

This is a decision on the "PETITION FOR CERTIFICATE OF CORRECTION" filed on February 20, 2008, which is treated as a request under 37 CFR 3.81(b) requesting deletion of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner asserts that no assignment in accordance with 37 CFR 3.11 has been recorded in this patent, but that an assignee's name was listed in error on Form PTOL-85(b) at the time the issue fee was paid.

Upon further review, the request is **granted**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3131. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100602

DATE : June 4, 2009

TO SPE OF : ART UNIT 2863
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/354446 /7349828

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: All Corrections Are Accurate W/R/T The Identified And Printed Column & Line Numbering System In The Patent

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2863
Art Unit

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

Mail Date: 04/21/2010

Applicant	: Rainer Muenzner	: DECISION ON REQUEST FOR
Patent Number	: 7613385	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN D. JETER
P.O. BOX 846
ST. MARTINVILLE, LA 70582

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APR 2 5 2006

OFFICE OF PETITIONS

In re Application of :
John D. Jeter :
Application No. 11/354,476 : DECISION ON PETITION
Filed: February 14, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 548 : 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 statement from Inventor John D. Jeter 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 2612 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 05/21/2010

Applicant	: Rita Mayur Lodaya	: DECISION ON REQUEST FOR
Patent Number	: 7622610	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/354,486	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **859** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI FL 33143

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OFFICE OF PETITIONS

In re Application of :
Cole et al. :
Application No.: 11/354496 : ON PETITION
Filing or 371(c) Date: 02/15/2006 :
Attorney Docket Number: YOR920060048US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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 June 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 18, 2008. Accordingly, the date of abandonment of this application is June 19, 2008.

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

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

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

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

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/20/2010

Applicant	: Randall L. Powers	: DECISION ON REQUEST FOR
Patent Number	: 7589946	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **875** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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OFFICE OF PETITIONS

In re Application of	:	
RODE	:	
Application No. 11/354,513	:	DECISION ON PETITION
Filed: March 15, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0545.051	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 7, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a passport and driver's license from John E. Rode. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

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

The application is being forwarded to the Technology Center Art Unit 3726 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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ALCATEL-LUCENT
C/O GALASSO & ASSOCIATES, LP
P. O. BOX 26503
AUSTIN, TX 78755-0503

Mail Date: 08/04/2010

Applicant	: Richard M. Czerwiec	: DECISION ON REQUEST FOR
Patent Number	: 7639697	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/354,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: 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.

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899 CASSATT ROAD
BERWYN PA 19312-1183

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OFFICE OF PETITIONS

In re Application :
Ayako Yamashita et al. :
Application No. 11/354,531 : DECISION ON APPLICATION
Filed: February 15, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
AM101856/103250.12101

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b) filed September 15, 2009. Applicant requests that the determination of patent term adjustment be corrected from 576 days to 886 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

---

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

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C/O KEATING & BENNETT, LLP
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SUITE 200
RESTON VA 20191

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In re Application of :
Teruhisa Shibahara :
Application No. 11/354,536 : DECISION ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. 36856.1422 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 replacement drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed September 3, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on November 23, 2009.

/KOC/
Karen Creasy
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 :
Donald **Barker** et al. :
Application No. 11/354,541 : DECISION ON PETITION
Filed: February 14, 2006 :
Attorney Docket No. 18568-021002 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed November 1, 2007. Accordingly, the date of abandonment of this application is February 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 , 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 Phyllis Spivack at 571-272-6052 or in her absence, the undersigned at (571) 272-7099.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/354,544	02/14/2006	Alan W. Weimer	026757-0003PXDV	8423

EXAMINER	
LEUNG, JENNIFER A	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
03/03/2010	PAPER

34284 7590 03/03/2010

Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

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

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

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Mailed : MAR 0 3 2010

DECISION ON PETITION

In re Application of
Weimer et. al.
Serial No. 11/354,544
Filed: February 14, 2006
For: Solar-Thermal Fluid-Wall Reaction Processing

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 for not rejoining claims 2-15 as a single embodiment under 1.144 and MPEP 818.03(d).

MPEP 818.03(d) deals with the traverse of a Restriction Requirement With Linking Claims. Linking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions). The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are

(A) genus claims linking species claims; and

(B) Subcombination claims linking plural combinations.

A review of the record indicates that the Examiner did not establish a restriction based on a linking claim. Because of Applicants's amendment, the Examiner established a restriction between the following inventions:

I. Claims 2-14, drawn to a reactor, classified in class 422, subclass 239.

II. Claim 15, drawn to a method to carry out a chemical reaction process, classified in class 423, subclass 650.

The Examiner established that the inventions were distinct, from the other because Inventions I and II were related as process and apparatus for its practice.

The inventions are distinct if it can be shown that either: (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. (MPEP 5 806.05(e)).

In this case, the Examiner established that the apparatus as claimed can be used to practice another and materially different process. For example, the apparatus can be used to carry out a chemical reaction process wherein an energy source other than sunlight, e.g., a laser, a W lamp, resistance heating, etc., is used to heat the

reactants. Alternatively, the apparatus can be used to carry out a physical (non-reacting) process such as mixing or separation, e.g., by diffusing fluid into or out from the porous first inner shell.

The record indicates that restriction for examination purposes was proper

DECISION

The petition is **DENIED.**

/JACQUELINE STONE/

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

Thomas S. Ferrill
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/354,544	02/14/2006	Alan W. Weimer	026757-0003PXDV	8423

34284 7590 05/14/2010

Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER	
LEUNG, JENNIFER A	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
05/14/2010	PAPER

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

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

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MAY 14 2010

Mailed :
In re Application of
Weimer et. al.
Serial No. 11/354,544
Filed: February 14, 2006
For: Solar-Thermal Fluid-Wall Reaction Processing

DECISION ON
PETITION

This is a decision on Reconsideration of the Petition Decision mailed on March 3, 2010. The original petition was filed under 37 CFR 1.144 for not rejoining claims 2-15 as a single embodiment under 1.144 and MPEP 818.03(d).

A review of the record indicates that because of Applicants' amendment, the Examiner established a restriction between the following inventions:

I. Claims 2-14, drawn to a reactor, classified in class 422, subclass 239.

II. Claim 15, drawn to a method to carry out a chemical reaction process, classified in class 423, subclass 650.

The Examiner established that the inventions were distinct, from the other because Inventions I and II were related as process and apparatus for its practice.

The inventions are distinct if it can be shown that either: (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. (MPEP 5 806.05(e)).

In this case, the Examiner established that the apparatus as claimed can be used to practice another and materially different process. For example, the apparatus can be used to carry out a chemical reaction process wherein an energy source other than sunlight, e.g., a laser, a W lamp, resistance heating, etc., is used to heat the reactants. Alternatively, the apparatus can be used to carry out a physical (non-reacting) process such as mixing or separation, e.g., by diffusing fluid into or out from the porous first inner shell.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and

(B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

If there is an express admission that the claimed inventions would have been obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. *In re Lee,* 199 USPQ 108 (Comm'r Pat. 1978).

Applicants asserted on the record and made an express admission that the method of independent claim 15 is an obvious variant of employing the high temperature solar-thermal reactor having three or more shells recited in claim2.

DECISION

The petition is **GRANTED.**

The Examiner is directed that Groups I and II be examined together.

/JACQUELINE STONE/

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

Thomas S. Ferrill
Rutan & Tucker, LLP.
611 ANTON BLVD
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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
11/354,557	02/15/2006	3671	600	FRG-15586.001	4	13	4

CONFIRMATION NO. 8450

040854
RANKIN, HILL, PORTER & CLARK LLP
4080 ERIE STREET
WILLOUGHBY, OH 44094-7836

CORRECTED FILING RECEIPT

OC000000018683943

Date Mailed: 05/04/2006

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

Applicant(s)

Gerhard Plasonig, Zurich, SWITZERLAND;
Christoph Niederhauser, Munchenbuchsee, SWITZERLAND;

Assignment For Published Patent Application

WOODWELDING AG, Zug, SWITZERLAND

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/499,901 07/12/2004 ABN
which is a 371 of PCT/CH02/00721 12/23/2002

Foreign Applications

SWITZERLAND 2340/01 12/24/2001

If Required, Foreign Filing License Granted: 04/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/354,557

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for applying elements to surfaces of constructed objects used for road traffic

Preliminary Class

404

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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Paper No. None

O'MELVENY & MYERS LLP
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17TH FLOOR
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of	
Tzong-Ru Han, Alexander Star,	
Jean-Christophe P. Gabriel,	
Sergei Skarupo, John Loren	
Passmore, Philip G. Collins,	DECISION ON PETITION
Keith Bradley, and Darin Olson	UNDER 37 C.F.R. §1.47(a)
Application No. 11/354,561	
Filed: February 14, 2006	
Attorney Docket Number: 612,407-77	
Title: NANOELECTRONIC SENSOR SYSTEM AND HYDROGEN-SENSITIVE FUNCTIONALIZATION	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 22, 2006.

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(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 CFR §1.63.

The above-identified application was filed on February 14, 2006, identifying Tzong-Ru Han, Alexander Star, Jean-Christophe P. Gabriel, Sergei Skarupo, John Loren Passmore, Philip G. Collins, Keith Bradley, and Darin Olson as joint inventors. An oath or declaration was not submitted on filing. On March 20, 2006, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same, the basic filing fee, additional claim fees, the search fee, the examination fee, and replacement drawings. The notice set a two-month period for response.

With the present petition, Petitioner has met each of the five requirements of Rule 1.47(a). Receipt of the one-month extension of time to make timely this response[2] is acknowledged.

Therefore, the petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

---

2 The petition contains a certificate of mailing dated June 19, 2006.
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

Darin Olson
266 Santa Margarita Avenue
Menlo Park, CA 64025

In re Application of :
Tzong-Ru Han, Alexander Star, Jean-Christophe P. Gabriel, Sergei Skarupo, John Loren Passmore, Philip G. Collins, Keith Bradley, and Darin Olson :
Application No. 11/354,561 :
Filed: February 14, 2006 :
Attorney Docket Number: 612,407-77 :
Title: NANOELECTRONIC SENSOR SYSTEM AND HYDROGEN-SENSITIVE FUNCTIONALIZATION :

LETTER

COPY MAILED
SEP 0 6 2006
OFFICE OF PETITIONS

Dear Mr. Olson:

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

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

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

cc: O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA 92660

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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DEC 13 2006

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of :
Norden and Dorn :
Application No.: 11/354,566 : DECISION ACCORDING
Filed: February 15, 2006 : RULE 47(a) STATUS
Attorney Docket No: 046948-0118
Invention: **FROZEN CUSTARD MACHINE**

This is in response to the petition under 37 CFR 1.47(a), filed August 10, 2006.

The petition is **GRANTED**.

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

The above-cited application was filed on February 15, 2006, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 13, 2006, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed and payment of a surcharge and filing fee.

Petitioner has shown that inventor has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

Mail Date: 04/21/2010

Applicant	: Mario Angelbert Lafortune	: DECISION ON REQUEST FOR
Patent Number	: 7600332	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **402** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GODFREY & KAHN, S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

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NOV 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Michael F. Aita, et. al. :
Application No. 11/354,589 : ON PETITION
Filed: February 14, 2006 :
Attorney Docket No. 071916-0003 :

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed March 13, 2006. A Notice of Abandonment was mailed on November 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $150 for the basic filing fee, an executed oath/declaration, a $65 surcharge for the late filing, $250 for the search fee, $100 for the examination fee, $100 for one independent claim over three, and $50 for two claims over 20; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Johnson & Associates
317A E. Liberty Street
Savannah GA 31401

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JUN 2 6 2010

OFFICE OF PETITIONS

In re Application of :
Anandan, et al. :
Application No. 11/354,594 : ON APPLICATION FOR
Filed: February 14, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. MTI-4001

This is in response to the "Petition for Correction of Patent Term Adjustment under 37 C.F.R. § 1.705(b), filed April 1, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is more than five hundred and fifty-four (554) days. Applicants do not specifically state what applicants' believe the correct determination to be. 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 is in receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

---

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
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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THE BILICKI LAW FIRM, PC
1285 North Main Street
JAMESTOWN NY 14701

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MAR 15 2010

In re Application of :
Craig Hefright et al. :
Application No. 11/354,598 : DECISION ON PETITION
Filed: February 14, 2006 :
Attorney Docket No **060.05301** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed March 25, 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 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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In re Application of :
Ronald Smith :
Application No. 11/354,615 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. 2825 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.

As to item (1), an amendment after final Office action was submitted on petition. However, the examiner has determined the amendment does not place the application in condition for allowance. An advisory action accompanies this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050.00 extension of time fee submitted with the petition on September 2, 2008 was subsequent to the maximum extendable period for reply. The fee will be refunded.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/354,615	**Applicant(s)** SMITH, RONALD T.	
	Examiner TINA M. WONG	**Art Unit** 2874	

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

THE REPLY FILED 02 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-30.
   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: _____.

/Tina M Wong/
Primary Examiner, Art Unit 2874

Continuation of 11. does NOT place the application in condition for allowance because: the proposed amendment raises new issue that would require further search and consideration.

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Paper No.

WilmerHale/Wyeth LLC
60 STATE STREET
BOSTON MA 02109

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FEB 19 2010

In re Patent No. 7,538,113	:	DECISION ON REQUEST
Jeffrey Pelletier	:	FOR
Issue Date: May 26, 2009	:	RECONSIDERATION OF
Application No. 11/354,621	:	PATENT TERM ADJUSTMENT
Filed: February 15, 2006	:	and
Atty Docket No. AM 101920	:	NOTICE OF INTENT TO ISSUE
(36119.173-US2)	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 27, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred forty-one (441) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicated that the term of the above-identified patent is extended or adjusted by four hundred forty-one (441) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred forty-one (441)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,538,113

DATED : **May 26, 2009** **DRAFT**

INVENTOR(S) : Pelletier

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 341 days

Delete the phrase "by 341 days" and insert – by 441 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON, MA 02021-2714

Mail Date: 04/20/2010

Applicant	: David J. Perreault	: DECISION ON REQUEST FOR
Patent Number	: 7589605	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **204** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
Benedict et al. :
Application No. 11/354,657 :
Filed: February 14, 2006 :
Attorney Docket No. 23239-576CIP(ARC-576 CIP) :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed June 9, 2009.

This application for patent term adjustment was timely filed with payment of the Issue Fee on June 9, 2009. As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On March 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed on June 9, 2009, with payment of the issue fee.

Applicants disclose that a 119-day reduction for the submission of the response and five-month extension of time in reply to the Notice to File Missing Parts dated March 9, 2006. Applicants note that the mailing of the Notice to File Missing Parts was not included in the transaction history.

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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.

A review of the record confirms that a 119-day reduction is warranted. Pursuant to 37 CFR 1.704(b) a reduction is required where applicants take in excess of three months to any Notice. In this instance the reply to the Notice to File Missing Parts was not received until October 6, 2006, 119 days after the three months from the mailing of the Notice to File Missing Parts. Thus, the total calculation for applicant delay prior to the mailing of the Notice of Allowance is 373 days.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 0 days (157 days of Office delay and 373 (119 + 165 + 89) days of applicant delay).

The Office acknowledges submission of authorization to charge 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). It should be noted the inclusion of 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 requires the submission of a petition fee.

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery A Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Day : Tuesday
Date: 7/21/2009

PALM INTRANET

Time: 14:50:02

PTA Calculations for Application: 11/354657			
Application Filing Date:	02/14/2006	PTO Delay (PTO):	157
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	254
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-119		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	07/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		119	
66	03/09/2009	MAIL NOTICE OF ALLOWANCE			
65	03/05/2009	ISSUE REVISION COMPLETED			
64	03/05/2009	DOCUMENT VERIFICATION			
63	03/05/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	03/05/2009	EXAMINER'S AMENDMENT COMMUNICATION			
61	03/05/2009	NOTICE OF ALLOWABILITY			
60	03/05/2009	DATE FORWARDED TO EXAMINER			
59	03/05/2009	LETTER WITHDRAWING / VACATING OFFICE ACTION			
58	03/04/2009	MAIL FINAL REJECTION (PTOL - 326)			
57	03/02/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	03/02/2009	FINAL REJECTION			
53	12/30/2008	PARALEGAL TD ACCEPTED			
52	12/30/2008	PARALEGAL TD ACCEPTED			
51	12/11/2008	TERMINAL DISCLAIMER FILED		0	48
50	12/11/2008	TERMINAL DISCLAIMER FILED			
49	12/29/2008	DATE FORWARDED TO EXAMINER			
48	12/11/2008	RESPONSE AFTER NON-FINAL ACTION		89	44
47	12/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	11/05/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	10/31/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
44	06/13/2008	MAIL NON-FINAL REJECTION			

43	06/12/2008	NON-FINAL REJECTION			
42	07/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	05/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	10/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	12/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	04/11/2008	DATE FORWARDED TO EXAMINER			
37	03/31/2008	RESPONSE TO ELECTION / RESTRICTION FILED		165	27
36	03/31/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	12/10/2007	REFERENCE CAPTURE ON IDS			
34	12/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	12/31/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	12/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	10/24/2007	REFERENCE CAPTURE ON IDS			
30	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	10/31/2007	DATE FORWARDED TO EXAMINER			
27.1	10/18/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
27	10/18/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
26	09/18/2007	MAIL RESTRICTION REQUIREMENT	157		-1
25	09/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
24	07/25/2007	REFERENCE CAPTURE ON IDS			
23	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/24/2007	REFERENCE CAPTURE ON IDS			
20	05/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

18	03/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	03/01/2007	PG-PUB ISSUE NOTIFICATION			
16	12/14/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	11/20/2006	APPLICATION RETURN FROM OIPE			
14	11/20/2006	APPLICATION RETURN TO OIPE			
13	11/20/2006	APPLICATION DISPATCHED FROM OIPE			
12	11/20/2006	APPLICATION IS NOW COMPLETE			
11	10/06/2006	ADDITIONAL APPLICATION FILING FEES			
10	10/06/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	03/16/2006	CLEARED BY L&R (LARS)			
6	03/08/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	03/08/2006	CASE CLASSIFIED BY OIPE			
4	03/02/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	02/27/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/14/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	02/14/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2010

TO SPE OF : ART UNIT 1635 - SPE Brian Whiteman.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/354,657 Patent No.: 7,579,456 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be made?

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: The change should be made to Claim 4, but not claim 1 because changing the term would result in a 112 second paragraph issue for claim 2

/Brian Whiteman/
~~AU 1635, Primary Examiner~~

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Claude Benedict	: DECISION ON REQUEST FOR
Patent Number	: 7579456	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: 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 : April 19, 2010

TO SPE OF : ART UNIT 1635 - SPE Brian Whiteman.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/354,657 Patent No.: 7,579,456 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims 1 and 2 be made?
See COCIN dated 04-21-2010

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____ /Brian Whiteman/

AU 1635, Primary Examiner

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Fereydoun Sajjadi/ 1635

Acting SPE Art Unit

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
C/O UNTEKKEVATEM KKC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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AUG 15 2008

OFFICE OF PETITIONS

In re Application of :
Wajdi K. Feghali et al :
Application No. 11/354,670 : DECISION GRANTING PETITION
Filed: February 14, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P23348 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

This application is being referred to Technology Center AU 2111 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 07/26/2010

Applicant	: Bruce Boczar	: DECISION ON REQUEST FOR
Patent Number	: 7644893	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/354,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **723** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 07/9/09

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 11354713
Patent No.: 7532928

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of**
Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: DRAWING CHANGE TO FIG.3 ONLY. PLEASE ENTER.

Carl H. Layno
SPE

AU3766
Art Unit

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OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Application of	:	
Volker Lang	:	
Patent Number: 7,532,928	:	
Issue Date: 05/12/2009	:	
Application No. 11/354713	:	ON REQUEST FOR
Filing or 371(c) Date: 02/15/2006	:	RECONSIDERATION OF
Attorney Docket Number: 117163.00163	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 CFR 1.705(d), filed June 5, 2009. Patentee requests that the determination of patent term adjustment be corrected from 537 days to 623 days. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent.

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

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,532,928 with a patent term adjustment of 537 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment according to the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that according to Wyeth, the correct days charged against the USPTO should be the summation of the days specified in 37 C.F.R. § 1.703(a) and 37 C.F.R. § 1.703(b). Patentees provide that the period of adjustment under 37 C.F.R. § 1.703(a) is 537 days, and the period of adjustment under 37 C.F.R. § 1.703(b) is 86 days, and the correct number of days charged against the USPTO under § 1.702(a)(1) and §.1.702(2)(b) is 623 days.

The 86-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 15, 2006 and the patent having issued on May 12, 2009, three (3) years and 86 days later. Patentees assert that in addition to this 86-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 537 days. This 537-day period is the result of a period of delay of 537 days for the failure by the Office to mail

at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

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

The Office agrees that as of the issuance of the patent on May 12, 2009, the application was pending three years and 86 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 537 days is correct. At issue is whether patentees should accrue 86 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 537 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 86 days of over three year delay overlaps with the period of 537 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any

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

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, February 15, 2006, to the date the patent issued on May 12, 2009. Prior to the issuance of the patent, 537 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 86 days for Office delay in issuing the patent overlap with the 537 days of Office delay. During that time, the issuance of the patent was delayed by 537 days, not 86 days + 537 days. The Office took 14 months and 537 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 537 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 86 days after its filing date. However, 537 days of patent term adjustment was properly entered because the period of delay of 86 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 537 days attributable to grounds specified in § 1.702(a). As the actual period of delay in issuance of the patent was 537 days, entry of both periods is not warranted.

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

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of
Van Saarloos, et al.
Application No. 11/354,718
Filed: February 15, 2006
Attorney Docket No. 040268-0210
For: SURGICAL VISUAL FEEDBACK AND EYE FIXATION METHOD AND APPARATUS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on April 1, 2008, requesting that the Office withdraw the holding of abandonment in the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to a Notice to File Missing Parts (Notice) purportedly mailed on March 20, 2006. The Office contended that this application became abandoned for failure to reply to a March 20, 2006 Notice, as was explained in A Notice of Abandonment, mailed on October 19, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that no March 20, 2006 Notice was received. The attorney filing this petition appears not to have had any connection to the application when the events in question purportedly took place. However, the undersigned finds the arguments presented convincing, as there is no March 20, 2006 Notice present in the application file.

There are no outstanding Office actions/Notices. Therefore, the petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the October 19, 2007 Notice of Abandonment is **vacated**. The $400.00 fee submitted with the present petition will be refunded to petitioners' credit card.

Accordingly, the application file will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

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

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MCCARTER & ENGLISH, LLP STAMFORD
FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Franklin Thomas Driver, et al. :
Application No. 11/354,720 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. ITI-423A (118001.15802) :
(118001.15802)

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 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, 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) was obtained. Accordingly, the application became abandoned on March 13, 2009. The Notice of Abandonment was mailed July 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) 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 the Technology Center AU 1791 for appropriate action on the concurrently filed amendment.

Terri Johnson
Petitions Examiner
Office of Petitions

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STEVEN M MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Rushani Wirasinghe	: DECISION ON REQUEST FOR
Patent Number	: 7599733	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **833** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SMITH-HILL AND BEDELL
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

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JUN 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Oskar Levgander	:	
Application No. 11/354,741	:	DECISION GRANTING
Filed: February 14, 2006	:	FILING DATE OF
Attorney Docket No. AWEK 3431	:	FEBRUARY 14, 2006

This is a decision on the petition filed April 11, 2006, requesting that the above-identified application be accorded a filing date of February 14, 2006, rather than the presently accorded date of February 15, 2006. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 14, 2006, pursuant to 37 CFR 1.10. The Express Mail label receipt no. EO917630274US bears a handwritten "date-in" of February 14, 2006. The same Express Mail number appears on the originally filed application papers.

The petition is **granted**.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **February 14, 2006, and for the mailing of a corrected Filing Receipt.** Thereafter, the application will be referred to Technology Center AU 3617 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SCHLUMBERGER TECHNOLOGY CORPORATION
DAVID CATE
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND, TX 77478

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Shunfeng Zheng	:	
Application No. 11/354,744	:	DECISION GRANTING PETITION
Filed: February 15, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 25.0258	:	

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

The petition is **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 13, 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 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 06/01/2010

Applicant	: Ernest C. Gerber	: DECISION ON REQUEST FOR
Patent Number	: 7665398	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/354,752	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Mail Date: 04/21/2010

Applicant	: Otto Karl Allmendinger	: DECISION ON REQUEST FOR
Patent Number	: 7578721	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **283** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/20/2010

Applicant	: Nader Gamini	: DECISION ON REQUEST FOR
Patent Number	: 7626248	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: 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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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 04/21/2010

Applicant	: Xiong-Dong Peng	: DECISION ON REQUEST FOR
Patent Number	: 7642477	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **698** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1420 FIFTH AVENUE
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OFFICE OF PETITIONS

In re Application of :
Simon J. Lovett :
Application No. 11/354786 :
Filing or 371(c) Date: 02/14/2006 :
Attorney Docket Number: :
501254.09 (30269/US/3) : ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment Office Action not Received," filed April 7, 2008. The petition is properly treated under 37 CFR 1.181(a). See, MPEP 711.03(c).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office Action, mailed June 21, 2007. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on September 22, 2007. A Notice of Abandonment was mailed February 6, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 2185, for re-mailing of the Office action and re-setting the period for reply.

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

WilmerHale/Wyeth
60 STATE STREET
BOSTON MA 02109

In re Application of	:	
Pelletier et al.	:	DECISION ON
Application No. 11/354,793	:	APPLICATION FOR
Filed: February 15, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. AM 101921	:	
(36119.174-US2)	:	

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.702-1.705," filed April 22, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is at minimum four hundred thirteen (413) days, not three hundred forty (340) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee

[1] Applicant notes that they do not know when the application will issue. The calculation asserted is as of April 29, 2009. Further, applicant acknowledges that the patent issuing from this application is entitled to a terminal disclaimer.

is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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].

---

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

The Office 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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WilmerHale/Wyeth
60 STATE STREET
BOSTON MA 02109

MAILED

MAR 11 2010

OFFICE OF PETITIONS

In re Patent No. 7,582,634	:	DECISION ON REQUEST
Pelletier et al.	:	FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Application No. 11/354,793	:	PATENT TERM ADJUSTMENT
Filed: February 15, 2006	:	and
Atty Docket No. AM 101921	:	NOTICE OF INTENT TO ISSUE
(36119.174-US2)	:	CERTIFICATE OF CORRECTION

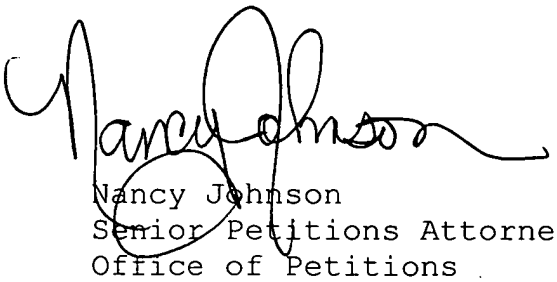
This is a decision on the petition filed on September 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-eight (538) 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 five hundred thirty-eight (538) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty-eight (538)** days.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,634 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Pelletier 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 350 days

Delete the phrase "by 350 days" and insert – by 538 days--

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WilmerHale/Wyeth LLC
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: Jeffrey Claude Pelletier	: DECISION ON REQUEST FOR
Patent Number	: 7582634	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,793	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **726** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of
Martin W. Stryker et al.
Application No. 11/354,801
Filed: February 15, 2006
Attorney Docket Number: STR03N P-123A

ON PETITION

This is a decision on the petition filed April 3, 2008 to refund the fees paid. The petition is being treated under 37 CFR 1.181.

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

Petitioner contends that an amendment and a petition to withdraw the finality of the application were filed November 14, 2007 after the mailing of a Final Office Action on September 14, 2007. Petitioner further contends that a Notice of Appeal was also filed February 14, 2008 with a two month extension of time, after it did not appear that a response to the petition to withdraw the finality was forthcoming.

37 CFR § 1.26 provides, in pertinent part, that:

> (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

Pursuant to both 37 CFR 1.116 and 37 CFR 1.135(b): (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. Accordingly, the filing of an amendment that may or may not place an application in condition for allowance will not extend the statutory period for reply, regardless of when the amendment is considered by the examiner, and will not prevent abandonment of the application. It is the applicant's responsibility to take the necessary action in an application under a final

Office action to provide a complete and proper reply. The fact that the examiner may not have an opportunity to review any amendment prior to the end of the period for reply does not relieve applicant of the responsibility to submit a complete and proper reply prior to the end of the statutory period for reply in order to avoid abandonment. In fact, the possibility of abandonment for failure to do so is precisely the possibility that applicants are cautioned of in §§ 1.116 and 1.135(b). Petitioner was not entitled to a determination that the amendment was proper prior to the end of the statutory period, nor should petitioner have relied on receiving one before taking action to save the application from abandonment.

A review of the record reveals that filing of the Notice of Appeal and payment of the extension of time fee was necessary to avoid abandonment of the application. Since the Final Office action mailed September 14, 2007 set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

Applicants thereby avoided abandonment of the application. As such, the fee is neither considered paid by mistake or paid in excess of that which was required. Accordingly, the fee will not be refunded.

The petition fee for a petition under 37 CFR 1.181 is set at $400, not $130 as indicated in the petition. Deposit account no. 22-0190 has been charged as authorized.

Subsequent to the filing of the instant petition, this application has matured into Patent No. 7,441,786 on October 28, 2008, therefore, there is no further action required.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

Mail Date: 04/20/2010

Applicant	: Tyler James Lockman	: DECISION ON REQUEST FOR
Patent Number	: 7665056	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **653** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

Mail Date: 04/20/2010

Applicant	: Tyler James Lockman	: DECISION ON REQUEST FOR
Patent Number	: 7665056	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **653** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,398,768 :
Issue Date: July 15, 2008 :
Application No. 11/354,851 : ON PETITION
Filed: February 16, 2006 :
Attorney Docket No. 056208.57407US :

This is a decision on the petition under 37 CFR 1.182, filed April 10, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Niomi Farmer at (703) 308-9250 ext. 119.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Fax (571) 270-9753.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/354,963	02/16/2006	Takeshi Nagai	285937US2SRD DIV	9526

7590 03/24/2009

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

EXAMINER	
DASTOURI, MEHRDAD	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
03/24/2009	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: 03/23/2009 BPOWELL
02/17/2006 HLE333 00000059 11354963
03 FC:1111 -500.00 OP
05 FC:1201 -1000.00 OP
06 FC:1202 -450.00 OP

Adjustment date: 03/23/2009 BPOWELL
02/17/2006 HLE333 00000059 11354963
03 FC:1111 -500.00 OP
05 FC:1201 -1000.00 OP
06 FC:1202 -450.00 OP

Refund Ref: 0030067985
03/23/2009

Credit Card Refund Total: $1950.00

Am Exp..: XXXXXXXXXX1008

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Katsuhiko Yamada	: DECISION ON REQUEST FOR
Patent Number	: 7596368	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/354,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **726** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Takaaki Miyasaka	: DECISION ON REQUEST FOR
Patent Number	: 7600412	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,007	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
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ALEXANDRIA, VA 22314-1176

Mail Date: 04/27/2010

Applicant	: Wen-Liang Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7587063	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/355,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **876** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Coral Gables, FL 33114-12098

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In re Application of :
Timothy Blayne Reeves :
Application No. 11/355,019 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 06088-1-0011 : FROM RECORD

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 30, 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 attorneys of record were not appointed by a customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Timothy Blayne Reeves :
Application No. 11/355,019 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 06088-1-0011 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 28, 2008.

The request is **APPROVED**.

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

The request was signed by Ury Fischer on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor, since no assignee has properly intervened. A courtesy copy of this decision will be mailed to the address noted on the request. If this person desires to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Timothy Blayne Reeves
376 Main Street, #3
Amesbury, MA 01913

cc: Mansions of Thought, R & D, LLC
5909 Breckenridge Parkway, Suite A
Tampa, FL 33610

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,019	02/15/2006	Timothy Blayne Reeves	06088-1-0011

CONFIRMATION NO. 9046

POWER OF ATTORNEY NOTICE

26135
LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES, FL 33114-1098

OC000000033234655

Date Mailed: 11/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2008.

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

/kainabinet/

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

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Gavin S. P. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7589724	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Ashesh C. Shah	: DECISION ON REQUEST FOR
Patent Number	: 7624925	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: 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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St. Jude Medical Neuromodulation Division
6901 Preston Road
Plano, TX 75024

Mail Date: 04/20/2010

Applicant	: Andrew D. Firlik	: DECISION ON REQUEST FOR
Patent Number	: 7577481	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **627** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Gavin S. P. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7623137	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **765** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GKN DRIVELINE NORTH
AMERICA, INC
3300 UNIVERSITY DRIVE
AUBURN HILLS MI 48326

In re Application of

Miller, et al.

Application No. 11/355,051

Filed: February 15, 2006

Attorney Docket No. G00458/US

: DECISION ON PETITION

MAILED

SEP 14 2009

OFFICE OF PETITIONS

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 file a proper reply in a timely manner to the final Office action mailed December 3, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on April 28, 2009, with a request for an extension of time within the second month. An Advisory Action mailed May 7, 2009, advised petitioner that the response of April 28, 2009, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on May 4, 2009. A Notice of Abandonment was mailed July 2, 2009.

The Request for Continued Examination filed August 4, 2009, is noted and made of record

The application is being forwarded to Technology Center 3600, GAU 3679 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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HALLIBURTON ENERGY SERVICES, INC.
2600 S. 2ND STREET
DUNCAN, OK 73536-0440

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APR 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Chatterji et al.	:	
Application No. 11/355,059	:	ON PETITION
Filed: February 15, 2006	:	
Attorney Docket No. 2005-IP-018608U1	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a Declaration signed by the applicant, Jiten Chatterji. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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TOMLINSON & O'CONNELL, P.C.
TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, SUITE 450
OKLAHOMA CITY OK 73102

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Floyd R. Gunsaulis :
Application No. 11/355,060 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. **2380-581**

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application also set forth in the ADS filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the Application Data Sheet, was submitted during the pendency of the instant nonprovisional

application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C.§ 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 2800, Art Unit 2886 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: 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
11/355,060	02/15/2006	2886	1300	2380-581	26	3

CONFIRMATION NO. 9265

CORRECTED FILING RECEIPT

28839
TOMLINSON & O'CONNELL, P.C.
TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, SUITE 450
OKLAHOMA CITY, OK 73102

Date Mailed: 12/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Floyd R. Gunsaulis, Perry, OK;

Power of Attorney:
Gary Peterson--28891
Sean O'Connell--42951
Lawrence Grable--48148

Domestic Priority data as claimed by applicant

This application is a CIP of 10/813,824 03/31/2004 PAT 7,195,079
which claims benefit of 60/459,186 03/31/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/355,060**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM FOR DETECTING DEFLECTION OF A BORING TOOL

Preliminary Class

356

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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Jerry L. Mahurin
The Gates Corporation
MS: IP Law Dept. 10-A3
1551 Wewatta Street
Denver, CO 80202

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Colin Knight :
Application No. 11/355,063 : DECISION REFUSING STATUS
Filed: February 15, 2006 : UNDER 37 CFR 1.47(b)
Attorney Docket No. C04-056A :
For: **FLARED CONE FITTING**

This is a decision on the petition under 37 CFR 1.47(b), filed September 14, 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 February 15, 2006, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 14, 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 September 14, 2006.

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

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

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

(3) the petition fee,

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

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) as set forth above.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an oath or declaration for the subject application. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jerry L. Mahurin
The Gates Corporation
MS: IP Law Dept. 10-A3
1551 Wewatta Street
Denver, CO 80202

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:
Colin Knight	:
Application No. 11/355,063	: DECISION ACCORDING STATUS
Filed: February 15, 2006	: UNDER 37 CFR 1.47(b)
Attorney Docket No. C04-056A	:
For: FLARED CONE FITTING	

This is in response to the renewed petition under 37 CFR 1.47(b), filed February 2, 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 February 15, 2006, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 14, 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 September 14, 2006, and dismissed by a decision mailed December 4, 2006. The instant renewed petition was filed on February 2, 2007.

By the instant petition and evidentiary documents, petitioner has established that the sole inventor has refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/355,064	02/15/2006	Robert M. Wydeven	503140	9234

53609 7590 07/14/2009

REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD, IL 61107

EXAMINER	
BUI, DUNG H	

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
07/14/2009	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):

RockMail@reinhartlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: JUL 14 2009

In re Application of	:	
Robert Wydeven et al.	:	DECISION ON
Serial No.: 11/355,064	:	PETITION
Filed: February 15, 2006	:	
For: FLUTED FILTER APPARATUS		

This is a decision on the PETITION TO DIRECTOR UNDER 37 CFR 1.144 FROM REQUIREMENT FOR RESTRICTION mailed September 19, 2008.

On September 19, 2008, a three way restriction requirement was made by the examiner. The examiner took the position that the application contained three inventions grouped as (I) claims 1-17, directed to a filter apparatus, (II) claims 18-26, directed to a filter element and (III) claims 27-30, directed to a process for making a filter. The examiner listed the same class and subclass for inventions I and II. In the response filed December 15, 2008, applicants traversed the restriction requirement; added claims 31-36 related to invention (I); and deleted claims 27-30 related to invention (III). The restriction requirement was made final in an action mailed January 30, 2009.

On April 23, 2009, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement with respect to inventions (I) and (II).

Applicant's position for the withdrawal of the restriction requirement is that a serious burden does not exist in examining inventions (I) and (II) together.

DECISION

MPEP 808.02 lists the three ways that an examiner can establish that a serious burden exists:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by

inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

In the present case, a separate classification does not exist as evidenced by the fact that the examiner listed the same class and subclass for inventions I and II. With respect to a separate status in the art, the examiner did not provide any patents as evidence of a separate status in the art. Lastly, the examiner never set forth that a separate field of search exists for the two inventions. Thus, the examiner has not established that a serious burden exists for examining the two inventions together.

Accordingly, the restriction requirement is improper and should be withdrawn. The instant petition is **GRANTED.** The examiner is directed to withdraw the restriction requirement with respect to inventions (I) and (II) and to prepare a new office action including an examination of claims 18-26 on the merits.

/Gregory L Mills/
Gregory Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Sun Y. Pae
REINHART BOERNER VAN DEUREN P.C.
2215 Perrygreen Way
Rockford, Illinois 61107

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Hanada et al. :
Application No. 11/355,103 : ON PETITION
Filed: 16 February, 2006 :
Attorney Docket No. 03500.516512 :

This is a decision on the petition filed on 7 June, 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 16 February, 2006, without, *inter alia*, a fully executed oath/declaration;

- on 28 March, 2006, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 7 June, 2006, Petitioner Lawrence A. Stahl (Reg. No. 30,110) filed, *inter alia*, the instant petition, an oath/declaration signed by Messrs. Hanada, Watanabe, Kimura and Nishihara (for themselves and on behalf of) but not the non-signing co-inventor Yukio Yokoyama (Mr. Yokoyama), and the statement of Hirokazu Uchio, Patent Attorney and Manager of Prosecution Managing Department of the averred assignee clearly states that only the assignment and oath/declaration was sent to Mr. Yokoyama, and not the entire application (description, claims, abstract and drawings) as required by statute and regulation–moreover, in light of Mr. Yokoyama's long absence from his family's home as described in the statement, there is no indication of any diligent effort to ascertain a reasonably-believed current and valid residential mailing address for Mr. Yokoyama.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to

> in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or

declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

Petitioner is directed to the BACKGROUND section above to review the deficiencies outlined therein to be satisfied–along with copies of transmittal letters and other such documents offered in support of any averments of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450
By FAX: IFW Formal Filings
(571) 273-8300

---

[1] See: MPEP 409.03(b).

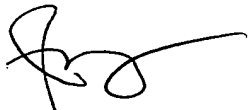
[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only 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.

ATTN.: Office of Petitions

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

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 02-07

Paper No: __

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Hanada et al. :
Application No. 11/355,103 : ON PETITION
Filed: 16 February, 2006 :
Attorney Docket No. 03500.516512 :

This is a decision on the petitions filed on 20 and 27 November, 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 16 February, 2006, without, *inter alia*, a fully executed oath/declaration;

- on 28 March, 2006, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 7 June, 2006, Petitioner Lawrence A. Stahl (Reg. No. 30,110) filed, *inter alia*, the instant petition, an oath/declaration signed by Messrs. Hanada, Watanabe, Kimura and Nishihara (for themselves and on behalf of) but not the non-signing co-inventor Yukio Yokoyama (Mr. Yokoyama), and the statement of Hirokazu Uchio, Patent Attorney and Manager of Prosecution Managing Department of the averred assignee clearly states that only the assignment and oath/declaration was sent to Mr. Yokoyama, and not the entire application (description, claims, abstract and drawings) as required by statute and regulation–moreover, in light of Mr. Yokoyama's long absence from his family's home as

described in the statement, there is no indication of any diligent effort to ascertain a reasonably-believed current and valid residential mailing address for Mr. Yokoyama–and the petition was dismissed on 27 June, 2006;

- the instant petition seeks to cure the former deficiencies, and specifically, with a submission of an executed oath/declaration in support of the averment that the formerly non-signing inventor Mr. Yokoyama had joined in the oath/declaration.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Oct. 21, 2004]

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 06/04/2010

Applicant	: Donald W. Peters	: DECISION ON REQUEST FOR
Patent Number	: 7624579	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/355,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **943** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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JUL 06 2006
OFFICE OF PETITIONS

In re Application of :
Bogoch, et al. :
Filed: February 16, 2006 : ON PETITION
Application No. 11/355,120 :
Dkt. No.: 0425/47302 :

The above-identified application has been referred to the Office of Petitions for consideration of the "PETITION AND AMENDMENT UNDER 37 C.F.R. § 1.57(a)(3) SUBMISSION OF DRAWINGS (FIGURES 1-22)," filed March 3, 2006, requesting amendment of the above-identified application to include Figures 1-22 inadvertently omitted from the application upon submission on February 16, 2006.

The petition under 37 CFR 1.57 is **DISMISSED**.

The application was submitted February 16, 2006 without drawings. This decision precedes Notice of Incomplete Nonprovisional Application. On March 3, 2006, petitioners submitted the instant petition under 37 CFR 1.57(a)(3) requesting that inadvertently omitted Figures 1-22 be entered into the application under the provisions of 37 CFR 1.57.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that

drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

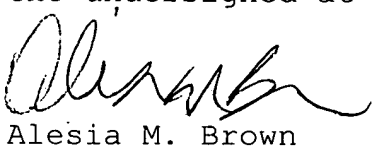
A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of February 16, 2006. Thus, a petition under 37 CFR 1.57(a)(3) is unnecessary as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(b).

The application will be processed with only the papers present on February 16, 2006, without drawings as part of the original disclosure.

The amendment under 37 CFR 1.57 will be examined in due course.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 16, 2006 using only the papers present on that day and without entry of any drawings into the record. A Notice to File Missing Parts, if appropriate, will be mailed in due course.

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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Commissioner for Patents
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Alexandria, VA 22313-1450
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RICHARD A. RYAN
ATTORNEY AT LAW
8497 N. MILLBROOK AVENUE
SUITE 101
FRESNO CA 93720

COPY MAILED

MAR 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Schaub et al.	:	
Application No. 11/355,139	:	ON PETITION
Filed: February 14, 2006	:	
Attorney Docket No. RAR625.02	:	

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 the applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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PTO/SB/97 (04-07)
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Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office Central Fax: 571-273-8300

on July 24, 2008
Date

Charles E. Temko
Signature

Charles E. Temko, Esq.
Typed or printed name of person signing Certificate

17,286
Registration Number, if applicable

203-227-7368
Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Application No. 11/355,142 - James T. DeLuca
Confirmation No.: 9264
Art Unit 9264 - TRACHEOSTOMY DEVICE
Petition to Make Special Based on Age ... Under 37 CFR 1.102(c)(1)

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 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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Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

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
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/355,142	Confirmation Number	9264	Filing Date	02/16/2006
Attorney Docket Number (optional)	28,515-A	Art Unit	2835	Examiner	
First Named Inventor	James T. DeLuca				
Title of Invention	TRACHEOSTOMY DEVICE				

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
James	T.	DeLuca	

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	/Charles E. Temko/	Date (YYYY-MM-DD)	07/24/2008
Name	Charles E. Temko	Registration Number	17,286

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

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OFFICE OF PETITIONS

In re Patent No. 7,543,398 :
Issue Date: June 9, 2009 :
Application No. 11/355,184 : ON PETITION
Filed: February 16, 2006 :
Attorney Docket No. **HSIAO 18** :

This is a decision on the petition filed September 16, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Tiong Lion Industrial Co., Ltd., Taichung Hsien, (TW)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Tiong Lion Industrial Co., Ltd., Taichung Hsien, (TW)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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GLENNA HENDRICKS, ESQ.
P.O. BOX 2509
FAIRFAX, VA 22031-2509

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JUN 06 2006
OFFICE OF PETITIONS

In re Application of :
Gullett et al. :
Application No. 11/355,189 :
Filed: February 16, 2006 :
Title: APPARATUS AND METHODS FOR USE IN CONCENTRATION OF GAS AND PARTICLE-LADEN GAS FLOWS :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed May 15, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The petition states, "The invention disclosed and claimed therein provides means for materially enhancing the quality of the environment by identifying concentration of gases in the environment." There is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements." The statement is inadequate to establish for the record that the invention will materially contribute to enhancing the quality of the environment. The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to the Technology Center Art Unit 2856 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. BOX 2509
FAIRFAX, VA 22031

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OFFICE OF PETITIONS

In re Application of :
Timothy R. Dean et al :
Application No. 11/355,190 :
Filed: February 16, 2006 :
For: METHOD FOR IDENTIFICATION OF MEDICALLY RELEVANT FUNGI :

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR § 1.102(c)(2)(i), filed May 5, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment, as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Petitioner's submission fails to meet the criteria set out with respect to materially enhancing the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements as set forth in M.P.E.P. §708.02(V). The specification and claims as originally filed indicate the invention is directed to identifying fungi a person may have been exposed to. Identifying and detecting do not equate to "materially enhancing the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements". Identifying and detecting fungi in itself does not materially contribute to materially enhancing the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. Further steps would be required to actually restore or maintain the basic life-sustaining natural elements. As a result, no contribution to the restoration or maintenance of basic life-sustaining natural elements has been persuasively shown.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
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Alexandria, VA 22313-1450

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon 571-272-3220..

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

This application is being referred to the Office of Initial Patent Examination for preexamination processing.

David Bucei
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Brian Roddy	: DECISION ON REQUEST FOR
Patent Number	: 7574500	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **626** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Joowon Rhee et al.
Application No. 11/355,198
Filed: February 16, 2006
Attorney Docket No.: **29137.154.00**

This is a decision on the petition under 37 CFR 1.182, filed January 25, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Joowon Rhee
2. Junhyeong Cho
3. Sanghyun Lee
4. Ohjin Park
5. Sijae Park

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 1636 for examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/355,198	02/16/2006	1636	1130	29137.154.00	14	1

CONFIRMATION NO. 8742

CORRECTED FILING RECEIPT

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

OC000000023197735

Date Mailed: 04/02/2007

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)

Joowon Rhee, Daejeon, KOREA, REPUBLIC OF;
Junhyeong Cho, Daejeon, KOREA, REPUBLIC OF;
Sanghyun Lee, Daejeon, KOREA, REPUBLIC OF;
Ohjin Park, Daejeon, KOREA, REPUBLIC OF;
Si Jae Park, Daejeon, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

LG CHEM, LTD., Seoul, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number **30827**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2005-12892 02/16/2005

If Required, Foreign Filing License Granted: 08/14/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/355,198

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Rhodococcus - E. coli shuttle vector

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
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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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DLA PIPER LLP US
P.O. BOX 2758
RESTON VA 20195

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Tayo AKADIN	:	
Application No. 11/355,204	:	DECISION ON PETITION
Filed: February 16, 2006	:	TO WITHDRAW
Attorney Docket No. 030107-000005	:	FROM RECORD
	:	

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 28, 2010.

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

A review of the file record indicates that the power of attorney to Dale Lazar and all the attorneys of record associated with Customer No. 47604, has been revoked by the applicant of the patent application on April 23, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,204	02/16/2006	Tayo Akadiri	030107-000005

CONFIRMATION NO. 7986

POWER OF ATTORNEY NOTICE

47604
DLA PIPER LLP US
P. O. BOX 2758
RESTON, VA 20195

OC000000042024623

Date Mailed: 06/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2010.

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

/dcgoodwyn/

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 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
11/355,204	02/16/2006	Tayo Akadiri	030107-000005

CONFIRMATION NO. 7986

58293
FORTKORT & HOUSTON P.C.
9442 N. CAPITAL OF TEXAS HIGHWAY
ARBORETUM PLAZA ONE, SUITE 500
AUSTIN, TX 78759

POA ACCEPTANCE LETTER

Date Mailed: 06/10/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2010.

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

/dcgoodwyn/

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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Date Mailed : September 12, 2009

Patent No. :7,548,685
Inventor :Hiroshi Mashima et al.
Patent Issued :June 16, 2009
Title :ROTATING DEVICE, BARREL UNIT, IMAGE SENSING APPAATUS INSTALLED WITH :THE SAME

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

Accordingly, the inventors address as printed is considered to be in accordance with that presented on the Declaration/Oath and in accordance with the present rules for printing inventors addresses where assignment data exist in the application file. In assigned patents, the city and U.S. state, or city and foreign country (residence) is captured on the Letters Patent.

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

Ms. Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1544

Gregory A. Stobbs
Harness, Dickey & Pierce, PLC
5445 Corporate Drive, Ste 200
Troy, MI 48098

/arg

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OFFICE OF PETITIONS

GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE NM 87114

In re Application of	:	
Andrew Stephen Van Luchene	:	
Application No. 11/355,232	:	DECISION ON PETITION
Filed: February 14, 2006	:	TO WITHDRAW
Attorney Docket No. 3108201	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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MAY 10 2010

OFFICE OF PETITIONS

GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE NM 87114

In re Application of :
Andrew S. Van Luchene :
Application No. 11/355,232 : DECISION ON PETITION
Filed: February 14, 2006 : TO WITHDRAW
Attorney Docket No. 3108201 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 1, 2010 and April 26, 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 Ellen Gonzales on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew Van Luchene
1012 Marquez Pl. #205A
Santa Fe, NM 87505

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,232	02/14/2006	Andrew Stephen Van Luchene	3108201

CONFIRMATION NO. 8555

POWER OF ATTORNEY NOTICE

52297
GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

Date Mailed: 05/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/01/2010.

- 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/

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

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OCT 1 2 2006

OFFICE OF PETITIONS

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

In re Application of
David Bell, David Jones Kassim Juma, Helmut Jaunich, Andreas Ansorge and Martin Schmidt
Application No.11/355,243
Filed: February 16, 2006
Attorney Docket No. 45-319
Title of Invention: Refractory Articles

: DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

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

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. Petitioner has provided evidence of inventor Juma's refusal to execute the application papers.

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

The petition fee is $200.00. The Office is in receipt of $130.00. Pursuant to petitioner's request deposit account 14-1140 will be charged the $70.00 difference.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kassim Juma
11 Exeter Street
Stafford ST17 4EG
United Kingdom

COPY MAILED

OCT 1 2 2006

OFFICE OF PETITIONS

In re Application of
David Bell, David Jones Kassim Juma, Helmut Jaunich, Andreas Ansorge and Martin Schmidt
Application No.11/355,243 : LETTER
Filed: February 16, 2006
Attorney Docket No. 45-319
Title of Invention: Refractory Articles

Dear Mr. Juma :

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203
ATTN: LEONARD C. MITCHARD

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Behram Mario DaCosta	: DECISION ON REQUEST FOR
Patent Number	: 7640577	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,280	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of :
O'Toole et al. :
Application No. 11/355297 :
Filing or 371(c) Date: 02/15/2006 :
Attorney Docket Number: :
AM100863 D1 : ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment," filed May 29, 2007. The petition is properly treated under 37 CFR 1.181(a). See, MPEP 711.03(c). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed August 11, 2006. The Office communication set a one (1) month period for reply. No response having been received, the application became abandoned on September 12, 2006. A Notice of Abandonment was mailed April 12, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

Applicant filed a response to the Office communication on March 19, 2007. The application will be referred to the Technology Center Art unit 1644 for processing of the response, and for further examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: KILPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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MAR 16 2010

OFFICE OF PETITIONS

WILMERHALE/WYETH LLC
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,534,796
Issued: May 19, 2009
Application No. 11/355,298
Filed: February 15, 2006
Attorney Docket No. AM101919
(36119.172-US2)

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed on April 13, 2009 and resubmitted July 20, 2009 after issuance of the patent, requesting that the patent term adjustment be corrected from 340 to 433 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred thirty-two (432) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 340 days. The "B" delay period, the over three year period begins on February 15, 2009 and ends on May 19, 2009 and therefore is 93 days. As such, the patent term adjustment is 432 days (340 plus 93 minus 1 day applicant delay), not 433 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) paid with the petition filed April 13, 2009. No additional fees are required and as such, the duplicate petition fee in the amount of $200.00 paid July 20, 2009 will be credited back to deposit account no. 08-0219.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred thirty-two (432)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,796 B2

DATED : May 19, 2009

INVENTOR(S) : Jeffrey Claude Pelletier

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 (339) days

Delete the phrase "by 339 days" and insert – by 432 days--

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TARO PHARMACEUTICALS USA, INC.
C/O VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Application of :
Daniel MOROS :
Application No. 11/355,339 : DECISION GRANTING PETITION
Filed: February 16, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **32308-232611(1022 US2)** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 28, 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 December 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Michael J. Urbano
1445 Princeton Drive
Bethlehem, PA 18017-9166

Mail Date: 05/20/2010

Applicant	: Loren Neil Pfeiffer	: DECISION ON REQUEST FOR
Patent Number	: 7619257	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/355,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **386** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

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SEP 02 2008

In re Application of :

VILCAUSKAS, Andy et al. :
Application No. 11/355,380 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. **8096.0021** : FROM RECORD
:

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 11, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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: **EXITEXCHANGE CORPORATION**
921 S.W. WASHINGTON STREET
PORTLAND, OR 97205

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WALLACE WILLIAM VAUX
6947 Birch Bay Drive
Blaine WA 98230

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OFFICE OF PETITIONS

In re Application of	:	
Wallace William Vaux	:	
Application No. 11/355,403	:	DECISION ON PETITION
Filed: February 16, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 23, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a 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 2838 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Alain Krzywdziak	: DECISION ON REQUEST FOR
Patent Number	: 7607820	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **925** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 08 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby :
Serial No.: 11/355,433 : PETITION DECISION
Filed: February 16, 2006 :
Attorney Docket No.: 1421-233

This is in response to the petition under 37 CFR § 1.59(b), filed January 27, 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 January 27, 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.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 18 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/355,433	: PETITION DECISION
Filed: February 16, 2006	:
Attorney Docket No.: 1421-233	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 9, 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 January 29, 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, applicant's 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 Examiner
Technology Center 1600

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ONE FINANCIAL CENTER
BOSTON, MA 02111

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OCT. 19 2009

OFFICE OF PETITIONS

In re Application of :
Benny PESACH, et *al.* :
Application No. 11/355,434 : DECISION GRANTING PETITION
Filed: February 16, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **38689-501002US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 14, 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 18, 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 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

[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.*

Via EFS
Date of Deposit: October 14, 2009

Attorney Docket No.: 38689-501002US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Pesach *et al.*	CONF NO.	2583
SERIAL NUMBER:	11/355,434	EXAMINER:	Iyabo S. Alli.
FILING DATE:	February 16, 2006	ART UNIT:	2877
FOR:	METHOD AND APPARATUS FOR PERFORMING OPTICAL MEASUREMENTS OF A MATERIAL		

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

PETITION TO WITHDRAW UNDER 37 C.F.R. §1.313(c)

Pursuant to 37 C.F.R. § 1.313(c)(2), Applicant is submitting herewith a Request for Continued Examination along with an Information Disclosure Statement. As Applicant has paid the issue fee in the present application, Applicant is filing this petition in order to withdraw the application from issue in order for the Information Disclosure Statement to be considered.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account 50-0311, Reference No. 38689-501002US. The Director is further authorized to charge any required fee(s) under 37 C.F.R. §§ 1.19, 1.20, and 1.21 to the abovementioned Deposit Account.

Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
Matthew Pavao, Reg. No. 50,572
Attorneys for Applicants
c/o MINTZ, LEVIN
Customer No.: 30623
Tel: (617) 542-6000
Fax: (617) 542-2241

Dated: October 14, 2009

10/20/2009 LDIEP1 00000003 500311 11355434
01 FC:1464 130.00 DA

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ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application
Benny Pesach et al.
Application No. 11/355,434
Filed: February 16, 2006
Attorney Docket No. **38689-501002US**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)filed August 18, 2009. Applicant requests that the determination of patent term adjustment be corrected from 261 days to 404 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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

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OFFICE OF PETITIONS

In re Patent No. 7,646,484	: DECISION ON REQUEST
Issued: January 12, 2010	: FOR RECONSIDERATION
Application No. 11/355,434	: OF PATENT TERM ADJUSTMENT
Filed: February 16, 2006	: AND
Attorney Docket No. 38689-501002US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d) timely filed on March 12, 2010, requesting that the patent term adjustment be corrected from 261 to 500 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by five hundred (500) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred (500)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

PALM INTRANET

Day : Friday
Date: 3/26/2010

Time: 13:05:02

PTA Calculations for Application: 11/355434			
Application Filing Date:	02/16/2006	PTO Delay (PTO):	349
Issue Date of Patent:	01/12/2010	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	88
Post-Issue Petitions:	0	Total PTA (days):	500
PTO Delay Adjustment:	239		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	239		
83.5	12/23/2009	PTA 36 MONTHS			
83	01/12/2010	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	12/03/2009	EXPORT TO FINAL DATA CAPTURE			
81	12/02/2009	DISPATCH TO FDC			
80	11/30/2009	ISSUE FEE PAYMENT VERIFIED			
79	11/30/2009	ISSUE FEE PAYMENT RECEIVED			
78	11/10/2009	EXPORT TO INITIAL DATA CAPTURE			
77	11/09/2009	MAIL-PETITION DECISION - DISMISSED			
76	11/09/2009	PETITION DECISION - DISMISSED			
75	11/05/2009	MAIL NOTICE OF ALLOWANCE			
74	11/04/2009	ISSUE REVISION COMPLETED			
73	11/04/2009	DOCUMENT VERIFICATION			
72	11/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	11/04/2009	NOTICE OF ALLOWABILITY			
66	10/14/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	10/20/2009	DATE FORWARDED TO EXAMINER			
64	10/14/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
63	10/20/2009	DISPOSAL FOR A RCE / CPA / R129			
62	10/14/2009	REFERENCE CAPTURE ON IDS			
61	10/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/19/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			

59	10/19/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
58	10/14/2009	PETITION ENTERED			
57	10/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	10/14/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	08/20/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
54	08/18/2009	ISSUE FEE PAYMENT VERIFIED			
53	08/18/2009	PETITION ENTERED			
52	08/18/2009	ISSUE FEE PAYMENT RECEIVED			
51	08/06/2009	FINISHED INITIAL DATA CAPTURE			
50	07/14/2009	EXPORT TO INITIAL DATA CAPTURE			
49	07/09/2009	MAIL NOTICE OF ALLOWANCE			
48	07/07/2009	ISSUE REVISION COMPLETED			
47	07/07/2009	DOCUMENT VERIFICATION			
46	07/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	07/06/2009	NOTICE OF ALLOWABILITY			
42	05/18/2009	DATE FORWARDED TO EXAMINER			
41	03/27/2009	RESPONSE AFTER NON-FINAL ACTION			
40	01/26/2009	MAIL NON-FINAL REJECTION	4		34
39	01/21/2009	NON-FINAL REJECTION			
35	11/05/2008	DATE FORWARDED TO EXAMINER			
34	09/22/2008	RESPONSE AFTER NON-FINAL ACTION		88	26
33	09/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	10/17/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	10/14/2008	CORRESPONDENCE ADDRESS CHANGE			
30	06/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/05/2008	REFERENCE CAPTURE ON IDS			
28	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	03/26/2008	MAIL NON-FINAL REJECTION	345		-1
25	03/24/2008	NON-FINAL REJECTION			
14	08/03/2007	CASE DOCKETED TO EXAMINER IN GAU			

13	03/08/2007	PG-PUB ISSUE NOTIFICATION			
12	01/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
10	12/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	11/29/2006	APPLICATION DISPATCHED FROM OIPE			
8	11/29/2006	APPLICATION IS NOW COMPLETE			
7	05/22/2006	ADDITIONAL APPLICATION FILING FEES			
6	05/22/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	03/07/2006	CLEARED BY OIPE CSR			
2	02/27/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/16/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,646,484 B2

DATED : January 12, 2010

INVENTOR(S) : Pesach 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 (261) days

Delete the phrase "by 261 days" and insert – by 500 days--

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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE, SUITE 800
WEST PALM BEACH FL 33401-6112

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OFFICE OF PETITIONS

In re Application of :
ASSUNCAO, et al. :
Application No. 11/355,435 :
Filed: February 16, 2006 :
Attorney Docket No. **54405-0003** :

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 October 12, 2007.

The request is **APPROVED.**

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

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

All future correspondence will be directed to the first named inventor Eduardo A. Assuncao at the address indicated below.

There is an outstanding Office action mailed August 10, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDUARDO A. ASSUNCAO**
15072 ASHLAND PLACE, #133D
DELRAY BEACH, FL 33484

cc: **GLOBAL ARTS AND ENTERPRISE CORPORATION**
ATTN: CRISTIANE R. ASSUNCAO
905B SOUTH RIDGE ROAD, #204
DELRAY BEACH, FL 33444

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DELPHI TECHNOLOGIES, INC
LEGAL STAFF - M/C 483-400-402
5725 DELPHI DRIVE
PO BOX 5052
TROY, MI 48007

Mail Date: 04/21/2010

Applicant	: Paul M. Degoul	: DECISION ON REQUEST FOR
Patent Number	: 7620465	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **648** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 3/10/09 Paper No.: —

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/355446 Patent No.: 7092142 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

/Ricky Mack/ 2873
SPE **Art Unit**

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DUANE MORRIS
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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OFFICE OF PETITIONS

In re Application of :
Che-Yu Li :
Application No. 11/355,451 :
Filed: February 16, 2006 :
Attorney Docket No. H1823-00022 :

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 February 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 statement by Che-Yu Li 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 2833 for action on the merits commensurate with this decision.

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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AGENSYS C/O MORRISON &
FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Gudas et al.	:	
Application No. 11/355,464	:	ON APPLICATION FOR
Filed: February 15, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 511582008821	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed April 16, 2009. Applicant requests that the determination of patent term adjustment be corrected from zero (0) days to nineteen (19) days, assuming the patent issues on August 4, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three 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 three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three 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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to deposit account 03-1952.

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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina L. Donnell

Christina Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Thomas D. Judd	: DECISION ON REQUEST FOR
Patent Number	: 7580377	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,486	: OF WYETH
Filed	: 02/16/2006	:
		:

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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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OFFICE OF PETITIONS

In re Patent of Osorio et al.	:	DECISION ON REQUEST
Patent No. 7,624,293	:	FOR RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/355,489	:	AND NOTICE OF INTENT TO
Filing Date: February 15, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 011738.00306	:	CORRECTION

This is a decision on the petition filed January 22, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred twenty (720) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred twenty (720) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred twenty (720)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,624,293 B2
APPLICATION NO.	:	11/355,489
DATED	:	November 24, 2009
INVENTOR(S)	:	Ivan Osorio et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 438 days.

Delete the phrase "by 438 days" and insert -- by 720 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/28/10 Paper No.: ———

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/355490 Patent No.: 7709402B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: Request for correction IS approved TTN
Examiner Thinh Nguyen 7/22/10 TTN

Steven Lohe AU 2818

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/28/10 Paper No.: —

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/355490 Patent No.: 7709402B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: Request for correction IS approved TTN
Examiner Thinh Nguyen 7/22/10 TTN

/Steven Loke/ AU 2818

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

Mail Date: 06/09/2010

Applicant	: Tomoya Kawashima	: DECISION ON REQUEST FOR
Patent Number	: 7652732	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/355,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **575** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of
GINIGER, Martin S.
Application No. 11/355,500
Filed: February 15, 2006
Attorney Docket No. **14475.858US01**

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 31, 2008.

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

A review of the file record indicates that the power of attorney to Hensley Kim & Holzer, LLC 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BERENBAUM, WEINSHIENK & EASON, P.C**
370 17TH STREET
SUITE 4800
DENVER CO 80202

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1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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OFFICE OF PETITIONS

In re Application of :
Martin S. GINIGER, et al :
Application No. 11/355,501 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 396-003-USP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

The request is **APPROVED**.

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

The request was signed by Richard J. Holzer, Jr. on behalf of the attorneys of record associated with Customer No. 45346.

The attorneys of record associated with Customer No. 45346 have been withdrawn.

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

The correspondence address or record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARTIN GINIGER
GRINRX CORPORATION
93 SOUTH JACKSON STREET,
SUITE 51006
SEATTLE, WA 98104-2818

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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OFFICE OF PETITIONS

In re Application of :
Martin S. GINIGER, et al :
Application No. 11/355,502 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 396-008-USP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

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

A review of the file record indicates that the power of attorney to Hensley Kim & Holzer, LLC, 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 be directed to the below-listed address until otherwise notified by applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR. MARTIN GINIGER
GRINRX CORPORATION
93 SOUTH JACKSON STREET,
SUITE 51006
SEATTLE, WA 98104-2818

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PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056-6582

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Roelvink et al.	:	DECISION ON PETITION
Application No. 11/355,516	:	TO WITHDRAW
Filed: February 16, 2006	:	FROM RECORD
Attorney Docket No. 0234004.0115PTUS	:	

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, 2006.

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

A review of the file record indicates that the power of attorney to practitioners associated with the above identified application has been revoked by the assignee of the patent application on June 16, 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREDERIC M. ORAN
14 OAK LANE
OLD BROOKVILLE, NY 11545-2107

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Frederic M. Oran	:	
Application No. 11/355,535	:	DECISION ON PETITION
Filed: February 16, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 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 instant petition includes a copy of Inventor Frederic M. Oran'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 3754 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Nanda, et al. :
Application No. 11/355,540 : DECISION ON PETITION
Receipt/Filing Date: 15 February, 2006 :
Attorney Docket No.051065U1 :

This is a decision on the petition filed on 22 May, 2006, and considered herein under 37 C.F.R. §1.53.

The instant petition is **DISMISSED** without prejudice.

BACKGROUND

The instant application was deposited on 15 February, 2006.

On 30 March, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items (the Notice) stating that the application had been accorded a filing date, but it appeared that Figs. 3A, 3B and 4, as described in the specification, had been omitted on deposit.

OIPE indicated that Petitioner might:

- contend via petition that the drawings had been submitted; or
- submit the omitted item(s) and accept the date of submission as the filing date; or

- ignore the Notice and accept the application as deposited.

OIPE set a two- (2-) month period for reply.

On Monday, 22 May, 2006, Petitioner submitted the instant petition, including therewith a copy of a what was averred to be true copy of Figs. 3A, 3B and 4, as described in the specification as filed, and Petitioner included what was averred to be a true copy of the date-stamped (("021506") receipt card (see: MPEP §503[1]), however, as discussed below, while Petitioner avers that five (5) sheets of drawings were submitted, Petitioner's receipt card indicates that six (6) sheets of drawings were submitted and received.

The receipt card–not the transmittal sheet–is controlling in these matters. (See: MPEP §503.)

ANALYSIS

A search of the official file reveals that:

---

[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.)

- on 15 February, 2006, Petitioner deposited the instant application;
- the date-stamped receipt card evidences–in pertinent part–the following:

* * *

ENCLOSED ARE:

* * *

[X] Utility Patent Applicatin (23 pages)
[X] Six (6) sheets of informal drawings (Emphasis supplied)

* * *

Petitioner's documents are in conflict with his averment.

CONCLUSION

The petition is **dismissed**.

Petitioner is given one (1) month to clarify the confusion created by the conflict between Petitioner's documents and Petitioner's averment.

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

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

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Paper No: __

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QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Nanda, et al. :
Application No. 11/355,540 : DECISION ON PETITION
Receipt/Filing Date: 15 February, 2006 :
Attorney Docket No.051065U1 :

This is a decision on the petition filed on 30 June, 2006, and considered under 37 C.F.R. §1.53.

The instant petition is **GRANTED**.

BACKGROUND

The instant application was deposited on 15 February, 2006.

On 30 March, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice of Missing Parts (the Notice) stating that the application had been accorded a filing date, but it appeared that Figs. 3A, 3B and 4, as described in the specification, had been omitted on deposit.

OIPE indicated that Petitioner might: contend via petition that the drawings had been submitted; or. submit the omitted item(s) and accept the date of submission as the filing date; or ignore the Notice and accept the application as deposited.

OIPE set a two- (2-) month period for reply.

On Monday, 22 May, 2006, Petitioner submitted the original petition, including therewith a copy of a what was averred to be true copy of Figs. 3A, 3B and 4, as described in the specification as

filed, and Petitioner included what was averred to be a true copy of the date-stamped (("021506") receipt card (see: MPEP §503[1]), however, due to the discrepancy between Petitioner's submission of five sequentially numbered sheets of drawings and the receipt card record of six sheets of drawings and Petitioner's submission of two different sets of drawings, the petition was dismissed on 5 June, 2005, for Petitioner to specify precisely his intentions in the matter.

The instant petition seeks to clarify the matter: However, while Petitioner's submission of a set of five sheets of formal drawings is his response to the requirement set out in the Notice of Missing Parts, the alterations inherent in incorporating into five sheets of formal drawings the content of six sheets of informal drawings by definition require amendment, which is not within the scope of a petition under 37 C.F.R. §1.53–or even under 37 C.F.R. §1.182. Rather, that authority is exclusive to the Examiner, and would be accomplished by presenting to the Examiner a preliminary amendment incorporating those changes.

Once again, Petitioner's receipt card, which is controlling in these matters (see: MPEP §503)–indicates that six (6) sheets of informal drawings were submitted and received and that is all to be addressed herein.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

ANALYSIS

A search of the official file reveals that:

- on 15 February, 2006, Petitioner deposited the instant application;
- the date-stamped receipt card evidences–in pertinent part–the following:

* * *

ENCLOSED ARE:

* * *

[X] Utility Patent Application (23 pages)
[X] Six (6) sheets of informal drawings (Emphasis supplied)

* * *

Because Petitioner's receipt card adequately itemized the contents of the application as to the drawings on the receipt card, it is concluded that the application, including Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification, was deposited with the Office on 15 February, 2006, and Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification, subsequently weres misplaced in the Office.

Accordingly, the application, including Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification, is entitled to a filing date of 15 February, 2006.

The Notice mailed on 20 March, 2006, was sent in error and is hereby **vacated** to the extent that it stated that the application was filed omitting Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification.

Should Petitioner wish to have the Examiner consider the amendment of drawings from six sheets of informal drawings to five sheets of formal drawings, Petitioner might wish to submit a preliminary amendment for this purpose to expedite proceedings.

CONCLUSION

The petition is **granted** and the petition fee waived.

This application is released to OIPE for further processing with a filing date of 15 February, 2006, for the entire application including Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification, with pages 1 - 23 of

the specification (description, claims, abstract), and 6 sheets of drawings (Figs. 1-4), as described in the specification, using:

- **pages 1 - 23 of the specification (description, claims, abstract) and 3 sheets of drawings (Figs. 1 - 2, sheets 1/6 - 3/6) deposited on 15 February, 2006; and**

- **and 3 sheet of drawings, Figs. 3A, 3B and 4 (informal drawing sheets 4/6, 5/6 and 6/6, respectively), as described in the specification and deposited on 22 May, 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 15 February, 2006, and reflecting therein that 23 pages of specification (description, claims, abstract) and 6 sheets of informal drawings (Figs. 1-4) were present on filing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

Applicant	: Hyun-Soo Chung	: DECISION ON REQUEST FOR
Patent Number	: 7572673	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,545	: OF WYETH
Filed	: 02/15/2006	:
		:

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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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 05/18/2010

Applicant : Hyun-Soo Chung
Patent Number : 7572673
Issue Date : 08/11/2009
Application No: 11/355,545
Filed : 02/15/2006

: 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 **531** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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APR 15 2008

OFFICE OF PETITIONS

In re Application of
KUMAR, Shailesh et al.
Application No. 11/355,567
Filed: February 15, 2006
Attorney Docket No. **ISAA0108D2**

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 13, 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, Fair Isaac request to transfer files to another law firm, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MINTZ, LEVIN, COHN, FERRIS,**
GLOVSKY AND POPEO P.C.
ATTENTION: JAMES CLEARY
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121

DATE 8/25/07 APPLICATION NUMBER 11/355,574

DOC CODE Pet.Doc.TC DOC DATE 8/25/07

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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AUG 27 2007

OFFICE OF PETITIONS

Mark Terry
2250 SW 3rd Av. Ste. 500
Miami FL 33129

In re Application of :
Thomas Hawkins :
Application No. 11/355,574 : DECISION ON PETITION
Filed: February 16, 2006 :
Attorney Docket Number: Icon Sea Wings :
Title of Invention: Multipurpose Winglet For Aircraft :

This is a petition under 37 CFR 1.137(b), filed March 19, 2007 to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on August 9, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. An untimely amendment was submitted on November 28, 2006. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 10, 2006. A Notice of Abandonment was mailed on March 27, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to Technology Center 3600 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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FEB 26 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby :
Serial No.: 11/355,590 : PETITION DECISION
Filed: February 16, 2006 :
Attorney Docket No.: 1421-232

This is in response to the petition under 37 CFR § 1.59(b), filed February 14, 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 February 14, 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.

George C. Elliott

George Elliott
Director, Technology Center 1600

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MAY 18 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/355,590	: PETITION DECISION
Filed: February 16, 2006	:
Attorney Docket No.: 1421-232	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 9, 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 February 14, 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, applicant's 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.

M. C. Seidel

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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Gregory W. Osterloth
Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

Mail Date: 04/21/2010

Applicant	: Kevin Slaboda	: DECISION ON REQUEST FOR
Patent Number	: 7587015	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **695** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Gregory W. Osterloth
Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

Mail Date: 05/18/2010

Applicant : Kevin Slaboda
Patent Number : 7587015
Issue Date : 09/08/2009
Application No: 11/355,599
Filed : 02/15/2006

: 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 **786** 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).

0 5 APR 2007

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John D. Pirnot
Advanced Energy Industries, Inc.
1625 Sharp Point Drive
Fort Collins, CO 80525

In re Application of :
TOMASEL :
PCT No.: PCT/US07/ 06720 : DECISION ON PETITION
Receipt Date: 16 February 2007 : UNDER 37 CFR 1.182
Priority Date: 16 February 2006 :
Attorney Docket No.: AE2004-044PCT/ADEN008 :
For: SYSTEM AND METHOD FOR :
DELIVERING VAPOR

This decision is in response to applicant's "Petition Under 37 CFR 1.182 " filed 07 March 2007. As authorized, the $400 petition fee will be charged to Deposit Account no. 50-1539.

BACKGROUND

On 16 February 2007, applicant submitted (via EFS-Web): a PCT application which included: 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a general power of attorney. Practitioner did not select the radio button for 'international application for filing in the US Receiving Office' and the application papers were treated as follow-on papers to the priority application number 11/355,617.

On 07 March 2007, applicant filed the present petition under 37 CFR 1.182 requesting that the papers filed 16 February 2007 in U.S. patent application no. 11/355,617 be converted to an international application with a filing date of 16 February 2007. The submission was assigned PCT/US07/06720.

DISCUSSION

Upon review of the application files, it is concluded that the papers filed 16 February 2007 were incorrectly processed as follow-on papers to the priority application number 11/355,617 due to practitioner's failure to select 'international application for filing in the US Receiving Office' radio button. Practitioner states in the present petition that "Through inadvertent error, "Utility" patent was selected under 'Type of Application' instead of 'International Application for filing in the US Receiving Office'." The papers filed on 16 February 2007 have been placed in application number PCT/US07/06720 and will be accorded an international filing date of 16 February 2007.

Applicant's request that the 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a

general power of attorney filed 16 February 2007 be converted to a PCT application and accorded an international filing date of 16 February 2007 is granted.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED and the international application will be accorded an international filing date of 16 February 2007.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the application papers an international filing date of 16 February 2007; and (2) forwarding notice of the 16 February 2007 international filing date to the International Bureau.

Applicant should use international application number PCT/US07/06720 in all future communications with the United States Patent and Trademark Office.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

cc: WIPO
34, chemin des Colombettes
Geneva, 20 1211, Switzerland

04/05/2007 SBASHEIR 00000005 501539 11355617
Sale Ref: 00000005 DA#: 501539 11355617
01 FC:1462 400.00 DA

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON, DC 20036-2402

COPY MAILED

SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
TOMASEL, Fernando G. et al. :
Application No. 11/355,617 : DECISION ON PETITION
Filed: February 16, 2007 : TO WITHDRAW
Attorney Docket No. **ADEN-008/00US** : FROM RECORD
:

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 06, 2007.

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

A review of the file record indicates that the power of attorney to COOLEY GODWARD KRONISH LLP has been revoked by the assignee of the patent application on July 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NEUGEBOREN LAW FIRM PC**
1035 PEARL STREET
SUITE 400
BOULDER CO 80302

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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NEUGEBOREN O'DOWD PC
1227 SPRUCE STREET
SUITE 200
BOULDER, CO 80302

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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of :
Fernando Gustavo Tomasel et al :
Application No. 11/355,617 : DECISION DISMISSING PETITION
Filed: February 16, 2006 : UNDER 37 CFR 1.313(a)
Attorney Docket No. AE2005-044US :

This is a decision on the petition filed March 19, 2009, which is being treated as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 2, 2009, with the issue fee being due on or before May 2, 2009. The issue fee in this case has not been paid.

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

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1797 for appropriate processing of the RCE filed March 19, 2009, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Tomasel, et al. Application No.: 11/355,617 Filed: 2/16/2006 Title: System and Method for Delivering Vapor Attorney Docket No.: AE2005.044	Art Unit: 1797 Examiner: Scott Bushey

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

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R.§1.313(C)(2)

In accordance with 37 C.F.R. 1.313(c)(2), Applicants petition the Director of Patents to withdraw the above-identified application from issue to permit consideration of a request for Continued Examination ("RCE") under 37 C.F.R. 1.114 accompanied by an Information Disclosure Statement. Applicants do not waive any rights to appropriate action to establish patentability over the cited references should the references be applied against the pending claims.

The petition fee as set forth in 37 C.F.R. 1.117(h) and the fee for the RCE as set forth in 37 C.F.R. 1.117(e) is enclosed.

Propmt and favorable consideration of this petition is respectfully requested.

Respectfully Submitted,

3/19/2009
Date

/Sean R. O'Dowd/
Sean O'Dowd
Attorney for Applicant(s)
Reg. No. 53402

Adjustment date: 03/23/2009 CKHLOK
03/20/2009 INTEFSW 00002033 11355617
01 FC:1464 -130.00 OP

Refund Ref:
03/23/2009 0030068012

Credit Card Refund Total: $130.00

VISA....: XXXXXXXXXXXX0252

Sean O'Dowd
Attorney at Law
1227 Spruce Street
Suite 200
Boulder, CO 80302
Tel. 720-536-4900

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 03/20/09 | 2 Serial/Patent # 11/355,617

	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		03/19/09	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

Credit Card

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

The petition is unnecessary; dismissed as moot.

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: [signature] DATE: 3/23/09

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)

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

SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

In re Application of :
Brouwers, et al. : DECISION REFUSING STATUS
Application No. 11/355,620 : UNDER 37 CFR 1.47(a)
Filed: February 16, 2006 :
Dkt. No.: TS6328 (US) :
For: METHOD FOR REMOVING :
CONTAMINATING GASEOUS :
COMPONENTS FROM A NATURAL GAS :
STREAM :

This decision is in response to the petition under 37 CFR 1.47(a), filed June 15, 2006.

The petition is **DISMISSED**.

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

The above-identified application was filed February 16, 2006 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 21, 2006 requiring an executed oath or declaration and a surcharge.

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

The instant petition fails to satisfy requirements (1) and (4) set forth above.

As to item (1), petitioners have failed to establish that the inventors received the application papers and thereafter refused to execute the oath or declaration.

Petitioners indicate that the inventors were presented, electronically, with a copy of the application papers.

The evidence submitted is not sufficient to show that the emailed document was in a form that could be read and comprehended by the intended recipient nor is there anything that could be deemed an acknowledgment of the attachments by the intended recipients.

As to the alleged refusal by the non-signing inventors, petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors.

Petitioners have failed to establish that the signing inventor received a complete copy of application papers for the instant application and thereafter refused to execute the declaration. The complete application papers (specification, including, claims, drawings, and oath or declaration) were not included in the emailed attachments.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of

letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

The instant petition fails to satisfy requirement (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable as it lists the businesses address for the non-signing inventors. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP § 605.03. Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

As to item (4), the petition fails to properly set forth the last known addresses of the non-signing inventors. The last known address should be the last known address at which the inventor customarily receives mail. *See* MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Correction upon renewed petition is required.

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

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

By facsimile:
(571) 273-8300

By hand:
U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street

Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of	
Brouwers, et al.	DECISION GRANTING STATUS
Application No. 11/355,620	UNDER 37 CFR 1.47(a)
Filed: February 16, 2006	
Atty. Dkt. No.: TS6328 (US)	
For: METHOD FOR REMOVING CONTAMINATING GASEOUS COMPONENTS FROM A NATURAL GAS STREAM	

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FEB 05 2007

OFFICE OF PETITIONS

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed December 1, 2006.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to execute the declaration for the above-identified application and/or cannot be reached or located for presentation and execution of same, and is thus unavailable.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J.J.H. Brouwers
Department of Mechanical Engineering
Eindhoven University of Technology, WH 2.131
PO Box 513, 5600 MB Eindhoven, The Netherlands

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Brouwers, et al. : LETTER
Application No. 11/355,620 :
Filed: February 16, 2006 :
Atty. Dkt. No.: TS6328 (US) :
For: METHOD FOR REMOVING :
CONTAMINATING GASEOUS :
COMPONENTS FROM A NATURAL GAS :
STREAM :

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R.J.E. VanWissen
Department of Mechanical Engineering
Eindhoven University of Technology, WH 2.131
PO Box 513, 5600 MB Eindhoven, The Netherlands

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Brouwers, et al. : LETTER
Application No. 11/355,620 :
Filed: February 16, 2006 :
Atty. Dkt. No.: TS6328 (US) :
For: METHOD FOR REMOVING :
CONTAMINATING GASEOUS :
COMPONENTS FROM A NATURAL GAS :
STREAM :

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 09-07

Paper No: __

MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
DeSilva, et al. : DECISION
Application No.: 11/355,643 :
Filing Date: 16 February, 2006 :
Attorney Docket No. 30000/D-3849-01 :

This is a decision on the petition filed on 10 May, 2007, supplemented on 21 June, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 2 November, 2006, with reply due absent extension of time on or before 2 February, 2007;

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

- the application went abandoned by operation of law after midnight 2 February, 2007;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 10 May, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the final Office action, and made the statements and provided documents required (see the Manual of Patent Examining Procedure provisions discussed below) in support thereof;
- on 11 May, 2007, the Office mailed the Notice of Abandonment;
- on 21 June, 2007, Petitioner re-asserted the averments of his earlier (10 May, 2007) petition.

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

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

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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

(4) Imposing a monetary sanction;

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

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

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

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

[3] 35 U.S.C. §133 provides:

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

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

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

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish

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

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

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

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

> nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

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

It appears that Petitioner technically has satisfied the showing as discussed above.

CONCLUSION

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

The instant application is released to Technology Center 1700 for further processing, including the re-mailing of the final Office action with a new period of reply, in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/355,643	02/16/2006	Ekmini Anuja De Silva	30000/D-3849-01	2339

57726 7590 11/02/2006

MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO, IL 60606

EXAMINER	
VISCONTI, GERALDINA	

ART UNIT	PAPER NUMBER
1752	

DATE MAILED: 11/02/2006

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

Office Action Summary	Application No.	Applicant(s)	
	11/355,643	DE SILVA ET AL.	
	Examiner	Art Unit	
	Geraldina Visconti	1752	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *18 August 2006 and 22 August 2006*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-8,10 and 12-17* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,10 and 12-17* is/are rejected.

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

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

Application Papers

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

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 8-22-06

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

GERALDINA VISCONTI
PRIMARY EXAMINER

This office action is responsive to the Amendment and Remarks filed 18 August 2006 and the Information Disclosure Statement filed 22August 2006 under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Claims 9 and 11 have been canceled. Claims 1-8, 10 and 12-17 are pending and presently under consideration in this application.

Claim Rejections - 35 USC § 112

1. The rejection of claims under 35 USC 112, second paragraph, as set forth in the first office action on the merits are hereby withdrawn in view of applicants' amendments to the same.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 8 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by "Derivatives of tetraphenylmethane and tetraphenylsilane: Synthesis of new tetrahedral building blocks for molecular construction", Jean-Hugues Fournier et al., Can. J. Chem., 81, 2003, pp. 376-380.

Jean-Hugues Fournier et al. discloses a composition comprising a tetrahedral silane molecule comprising a silicon center atom and four substituted phenyl groups, each substituted phenyl group attached to the silicon center atom, each substituted phenyl group comprising a substituent in the 3-postion.

Claim Rejections - 35 USC § 103

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

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

5. Claims 3-7, 10, 12-15 and 17are rejected under 35 U.S.C. 103(a) as being unpatentable over "Derivatives of tetraphenylmethane and tetraphenylsilane: Synthesis of new tetrahedral building blocks for molecular construction", Jean-Hugues Fournier et al., Can. J. Chem., 81, 2003, pp. 376-380.

Jean-Hugues Fournier et al. discloses a composition comprising a tetrahedral silane molecule comprising a silicon center atom and four substituted phenyl groups, each substituted phenyl group attached to the silicon center atom, each substituted phenyl group comprising a substituent in the 3-postion. It would have been obvious to one of ordinary skill in the requisite art at the time the invention was made to incorporate the tetraphenylsilane taught in Jean-Hugues Fournier et al. into a photoresist composition further comprising a cross linker, and to subsequently coat said photoresist composition onto a semiconductor substrate to form a resist patter and then a semiconductor element, absent object evidence to the contrary.

6. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 22 August 2006 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS**

MADE FINAL. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geraldina Visconti whose telephone number is (571) 272-1334. The examiner can normally be reached 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

GERALDINA VISCONTI
PRIMARY EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

Mail Date: 04/20/2010

Applicant	: Damian L. Lang	: DECISION ON REQUEST FOR
Patent Number	: 7665252	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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ARMSTRONG KRATZ QUINTOS HANSON & BROOKS, LLP
INTELLECTUAL PROPERTY LAW OFFICE
SUITE 220
502 WASHINGTON AVENUE
TOWSON, MD 21204

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SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Michael R. Abidin et al :
Application No. 11/355,653 : ON PETITION
Filed: February 16, 2006 :
Attorney Docket No. 06033-PA-DIV (0004.0033) :

This is a decision on the petition filed May 29, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

Office records show the Notice of Allowance mailed September 26, 2006, which set a statutory period for reply of three (3) months, was timely received on November 21, 2006 in the form of issue fee payment (PTO-85b). The $1780 submitted with the petition on May 29, 2007 is unnecessary. Petitioner may request for a refund of this amount by writing to Mail Stop 16, Refund Requests, a copy of this decision should accompany petitioner's request.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Beyer Weaver, LLP
P.O. Box 70250
Oakland, CA 94612-0250

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APR 10 2008

OFFICE OF PETITIONS

In re Application of
Hideo Kikuchi
Application No. 11/355,657
Filed: February 15, 2006
Attorney Docket No. ALPSP233

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

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

A review of the file record indicates that the power of attorney to James E. Austin, LLP and all attorneys/agents associated with customer number 03705 has been revoked by the assignee of the patent application on March 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Beyer Law Group, LLP
P.O. Box 1687
Cupertino, CA 95015-1687

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,657	02/15/2006	Hideo Kikuchi	ALPSP233

CONFIRMATION NO. 2379

POWER OF ATTORNEY NOTICE

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

OC000000029312817

Date Mailed: 04/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/31/2008.

- 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).

/sareebuddin/

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

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

Mail Date: 04/21/2010

Applicant	: Robert Lee Barcus	: DECISION ON REQUEST FOR
Patent Number	: 7598331	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **845** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	: Steve Esslinger	: DECISION ON REQUEST FOR
Patent Number	: 7640758	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Daniel Douriet	: DECISION ON REQUEST FOR
Patent Number	: 7614141	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 16 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/355,717	: PETITION DECISION
Filed: February 16, 2006	:
Attorney Docket No.: 1421-230	

This is in response to the petition under 37 CFR § 1.59(b), filed February 14, 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 February 14, 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

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SEP 17 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/355,717	: PETITION DECISION
Filed: February 16, 2006	:
Attorney Docket No.: 1421-230	:

This is in response to the petition under 37 CFR § 1.59(b), filed September 4, 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 February 15, 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, applicant's 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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MAR 23 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby :
Serial No.: 11/355,718 : PETITION DECISION
Filed: February 16, 2006 :
Attorney Docket No.: 1421-231

This is in response to the petition under 37 CFR § 1.59(b), filed February 28, 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 February 28, 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

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SEP 11 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/355,718	: PETITION DECISION
Filed: February 16, 2006	:
Attorney Docket No.: 1421-231	:

This is in response to the petition under 37 CFR § 1.59(b), filed August 8, 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 February 28, 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.

Therefore, applicant's 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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The Empire State Building
350 Fifth Avenue, Suite 4710
New York NY 10118

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Vincent Giagni :
Application No. 11/355,723 : DECISION ON PETITION
Filed: February 17, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. JWB-2004-9-P : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 22, 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 3751 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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MAR 30 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Pescatore et al. :
Application No. 11/355,733 :
Filed: February 16, 2006 :
Attorney Docket No. 14XZ165132/GEM-0261 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a signed Oath/Declaration and the surcharge; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Thomas V. Harris et al :
Application No. 11/355,754 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. T-6217C :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 5, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1110 extension of time submitted with the petition on February 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1793 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MONTGOMERY, MCCRACKEN, WALKER & RHOADS, LLP
123 SOUTH BROAD STREET
AVENUE OF THE ARTS
PHILADELPHIA, PA 19109

Mail Date: 04/23/2010

Applicant	: John Barthelow Classen	: DECISION ON REQUEST FOR
Patent Number	: 7653639	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

Mail Date: 05/03/2010

Applicant	: Kendrick R. Bennett	: DECISION ON REQUEST FOR
Patent Number	: 7627398	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/355,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OCT 0 9 2008

Susan H. Goodson, Ph.D.
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Jones et al :Decision on Petition
Serial No.: 11/355,785 :
Filed : 16 February 2006 :
Attorney Docket No.: 20750-011002/071.US4.DIV :

This letter is in response to the Petition under 37 CFR 1.144 filed on 20 May 2008 requesting reconsideration of the restriction requirement.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is eligible for U.S. restriction and election of species practice.

On 10 January 2007, the examiner mailed restriction requirement in which the original 100 claims were divided in 3 groups of the product, process of treatment and process for modulation. If the product were elected, the examiner also required an election of species for each of the residues T, M, J, U, V, W, X, Y and Z. If the process of treatment were elected, the examiner required an election among types the metabolic disorder.

On 13 February 2008, Applicants elected Group I with traverse and Compound A123 as the elected species and filed an amendment to the claims. Compound

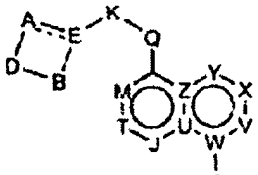
A123 falls within Formula (I) when A and B = C_2 alkylene; D = NR_2, where $R_2 = GR_{24}$, and wherein G = carbonyl and R_{24} = ethoxy; E = CH; J = N; K = a bond; M = N; Q = O; T = CR_5, where R_5 = H; U = C; V = a bond; W = N; X = N; Y = CR_{10}, where R_{10} = H; Z = C; and Ar_1 is 4-methanesulfonylphenyl.

On 5 June 2007, in a non-final Office action, the examiner considered the traversal and made the restriction requirement FINAL. The examiner required applicants to amend the claims to the elected group and cancel the non-elected subject matter. The Examiner rejected claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105 under 35 U.S.C. 103(a) and/or (provisional) obviousness type double patenting.

On 27 November 2007, Applicants responded to the Office action. Claims 8-11, 29-30, 38, 50-52, 57-100 and 106-110 were cancelled.

On 19 February 2008, in a Final Office action, examiner required applicants to amend the claims to the elected group and cancel the non-elected subject matter. The examiner defined the elected invention as follows:

Claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105, in part, drawn to



compounds/compositions of formula (I), i.e., wherein the variable T is CR_5, the variable M is N, the variable J is N, the variable U is C, the variable V is a bond, the variable W is N, the variable X is N, the variable Y is CR_{10}, the variable Z is C, i.e., the moiety represents a pyrazolo[3,4-d] pyrimidine or pyrazolo[4,3-d] pyrimidine moiety, and the variable D is CR_1R_2, the variable E is N, the variable A and B independently represents C_{1-3} alkylene (i.e., the moiety represents piperidine or pyrrolidine).

The Examiner then maintained the rejections on claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105 under 35 U.S.C. 103(a) and/or (provisional) obviousness type double patenting.
On 18 April 2008, Applicants field an After final response.

On 20 May 2008, the Examiner mailed an Advisory Action.

On 20 May 2008, Applicants filed a Request for Continued Examination and this petition to request that the Office reconsider the restriction requirement and extend examination to a second or subsequent species of Claim 1, per MPEP 803.02.

DISCUSSION

The petition and file history have been carefully considered.

The petition requests that examination of Claim 1 be extended because the only remaining rejection has been withdrawn. This is not persuasive, because the rejection of claim 1 under 35 U.S.C. 103(a) has not been withdrawn in either the Final Office action or the advisory action. It is noted that the amendment after final does not contain any amendment to Claim 1.

MPEP 803.02 states in part:

> This subsection deals with Markush-type generic claims which recite a plurality of alternatively usable substances or members. In most cases, a recitation by enumeration is used because there is no appropriate or true generic language. A Markush-type claim may include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. *If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration* [emphasis added]
>
> As an example, in the case of an application with a Markush-type claim drawn to the compound X-R, wherein R is a radical selected from the group consisting of A, B, C, D, and E, the examiner may require a provisional election of a single species, XA, XB, XC, XD, or XE. The Markush-type claim would then be examined fully with respect to the elected species and any species considered to be clearly unpatentable over the elected species. *If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration.* A second action on the rejected claims can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a). [emphasis added]

Upon review of the Final Office action, on page 3, the examiner has apparently redefined the elected invention at least in terms of variables A and B, wherein A and B as independently C1-3 alkylene. In contrast, Applicants elected Compound A123, in which A and B = C2 alkylene.

MPEP 818.01 states that:

> Election becomes fixed when the claims in an application have received an action on their merits by the Office.

MPEP 818.03

> Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

Accordingly, the Examiner cannot switch applicants' election or make an election for applications.

Finally the examiner has required applicants to cancel non-elected subject matter from the generic claims. Because the election of species requirement is predicated upon the non-allowance of the generic claim, MPEP 809 specifically permits applicants to retain claims directed to their non-elected inventions.

> Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

Accordingly, it was improper for the examiner to have required applicants to amend their claims to remove non-elected subject matter.

Applicants are correct in asserting that the Office must provide a clear record of the restriction requirement. As MPEP 814 states:

> The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

In this application, the redefinition of the election invention in the final Office action of the merits has created confusion.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of the papers filed 20 May 2008, further examination of the elected species, Compound A123, and any extended examination of second or subsequent species required by MPEP 803.02 should all claims directed to the elected species be in condition for allowance and for the preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/355,785	02/16/2006	Robert M. Jones	20750-011002 71.US4.DIV	2806

26204 7590 10/20/2008
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
SHIAO, REI TSANG	

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
10/20/2008	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):

PATDOCTC@fr.com

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Susan H. Goodson, Ph.D.
FISH & RICHARDSON P.C.
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In re Application of	:
Jones et al	:Decision on Petition
Serial No.: 11/355,785	:
Filed : 16 February 2006	:
Attorney Docket No.: 20750-011002/071.US4.DIV	:

This letter is in response to the Petition under 37 CFR 1.144 filed on 20 May 2008 requesting reconsideration of the restriction requirement. This is a supplemental decision that corrects a phrase on page 3, second full paragraph with regards to the status of the obviousness type double patenting rejection.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is eligible for U.S. restriction and election of species practice.

On 10 January 2007, the examiner mailed restriction requirement in which the original 100 claims were divided in 3 groups of the product, process of treatment and process for modulation. If the product were elected, the examiner also required an election of species for each of the residues T, M, J, U, V, W, X, Y and Z. If the process of treatment were elected, the examiner required an election among types the metabolic disorder.

On 13 February 2008, Applicants elected Group I with traverse and Compound A123 as the elected species and filed an amendment to the claims. Compound

A123 falls within Formula (I) when A and B = C_2 alkylene; D = NR_2, where R_2 = GR_{24}, and wherein G = carbonyl and R_{24} = ethoxy; E = CH; J = N; K = a bond; M = N; Q = O; T = CR_5, where R_5 = H; U = C; V = a bond; W = N; X = N; Y = CR_{10}, where R_{10} = H; Z = C; and Ar_1 is 4-methanesulfonylphenyl.

On 5 June 2007, in a non-final Office action, the examiner considered the traversal and made the restriction requirement FINAL. The examiner required applicants to amend the claims to the elected group and cancel the non-elected subject matter. The Examiner rejected claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105 under 35 U.S.C. 103(a) and/or (provisional) obviousness type double patenting.

On 27 November 2007, Applicants responded to the Office action. Claims 8-11, 29-30, 38, 50-52, 57-100 and 106-110 were cancelled.

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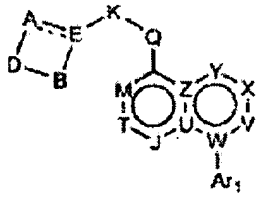
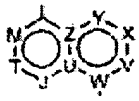
Claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105, in part, drawn to



compounds/compositions of formula (I), i.e., wherein the variable T is CR_5, the variable M is N, the variable J is N, the variable U is C, the variable V is a bond, the variable W is N, the variable X is N, the variable Y is CR_{10}, the variable Z is C, i.e., the moiety  represents a pyrazolo[3,4-d] pyrimidine or pyrazolo[4,3-d] pyrimidine moiety, and the variable D is CR_1R_2, the variable E is N, the variable A and B independently represents C_{1-3} alkylene (i.e., the moiety represents piperidine or pyrrolidine).

The Examiner then maintained the rejections on claims 1-7, 12-28, 31-37, 39-49, 53-56 and 101-105 under 35 U.S.C. 103(a) and/or (provisional) obviousness type double patenting.
On 18 April 2008, Applicants field an After final response.

On 20 May 2008, the Examiner mailed an Advisory Action.

On 20 May 2008, Applicants filed a Request for Continued Examination and this petition to request that the Office reconsider the restriction requirement and extend examination to a second or subsequent species of Claim 1, per MPEP 803.02.

DISCUSSION

The petition and file history have been carefully considered.

The petition requests that examination of Claim 1 be extended because the only remaining rejection has been withdrawn. This is not persuasive, because the rejection of claim 1 under obviousness type double patenting has not been withdrawn in either the Final Office action or the advisory action. It is noted that the amendment after final does not contain any amendment to Claim 1.

MPEP 803.02 states in part:

> This subsection deals with Markush-type generic claims which recite a plurality of alternatively usable substances or members. In most cases, a recitation by enumeration is used because there is no appropriate or true generic language. A Markush-type claim may include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. *If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration* [emphasis added]
>
> As an example, in the case of an application with a Markush-type claim drawn to the compound X-R, wherein R is a radical selected from the group consisting of A, B, C, D, and E, the examiner may require a provisional election of a single species, XA, XB, XC, XD, or XE. The Markush-type claim would then be examined fully with respect to the elected species and any species considered to be clearly unpatentable over the elected species. *If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration.* A second action on the rejected claims can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's

> amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a). [emphasis added]

Upon review of the Final Office action, on page 3, the examiner has apparently redefined the elected invention at least in terms of variables A and B, wherein A and B as independently C1-3 alkylene. In contrast, Applicants elected Compound A123, in which A and B = C2 alkylene.

MPEP 818.01 states that:

> Election becomes fixed when the claims in an application have received an action on their merits by the Office.

MPEP 818.03

> Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

Accordingly, the Examiner cannot switch applicants' election or make an election for applications.

Finally the examiner has required applicants to cancel non-elected subject matter from the generic claims. Because the election of species requirement is predicated upon the non-allowance of the generic claim, MPEP 809 specifically permits applicants to retain claims directed to their non-elected inventions.

> Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

Accordingly, it was improper for the examiner to have required applicants to amend their claims to remove non-elected subject matter.

Applicants are correct in asserting that the Office must provide a clear record of the restriction requirement. As MPEP 814 states:

> The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

In this application, the redefinition of the election invention in the final Office action of the merits has created confusion.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of the papers filed 20 May 2008, further examination of the elected species, Compound A123, and any extended examination of second or subsequent species required by MPEP 803.02 should all claims directed to the elected species be in condition for allowance and for the preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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Schnader, Harrison, Segal & Lewis, LLP
1600 Market Street, Suite 3600
Philadelphia, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Thomas Merkh et al.	:	
Application No. 11/355,797	:	DECISION ON PETITION
Filed: February 16, 2006	:	TO WITHDRAW
Attorney Docket No. 3010070-0004-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 December 11, 2008.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Joan T. Kluger and all attorneys/agents of record have been revoked by the assignee of the patent application on December 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert C. Kain, Esq.
Kain & Associates
Suite 100
750 S.E. 3rd Avenue
Ft. Lauderdale, FL 33316

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APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Denis Serenyi	: DECISION ON REQUEST FOR
Patent Number	: 7653685	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: 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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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

Mail Date: 04/21/2010

Applicant	: Jong-Hun Lee	: DECISION ON REQUEST FOR
Patent Number	: 7653058	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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MILDE & HOFFBERG, LLP
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SUITE 460
WHITE PLAINS, NY 10606

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of Weiss :
Application No. 11/355,811 : Decision on Petition
Filing Date: February 16, 2006 :
Attorney Docket No. WEISS 201.2-KFM :

This is a decision on the petition under 37 CFR 1.181 filed November 5, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

On April 17, 2008, the Office mailed a non-final Office action setting a three-month shortened statutory period for reply.

The Office mailed a Notice of Abandonment on October 30, 2008. The Notice stated the application was abandoned because no reply had been filed in response to the April 17, 2008 Office action.

The application is clearly not abandoned in view of the following facts:

(1) The file record contains a reply filed October 27, 2008;
(2) The October 27, 2008 reply included a proper certificate of mailing dated October 17, 2008; and
(3) The October 27, 2008 reply was accompanied by payment for a three-month extension of time.

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

Technology Center Art Unit 2622 will be informed of the instant decision and the application, including the reply filed October 27, 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Timothy C. Nichols	: DECISION ON REQUEST FOR
Patent Number	: 7653342	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **622** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Hooman Darabi	: DECISION ON REQUEST FOR
Patent Number	: 7647026	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/355,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Hooman Darabi
Patent Number : 7647026
Issue Date : 01/12/2010
Application No: 11/355,818
Filed : 02/16/2006

: 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 **511** 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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LEONARD A. ALKOV, ESQ.
RAYTHEON COMPANY
P.O. BOX 902 (E4/N119)
EL SEGUNDO CA 90245-0902

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OFFICE OF PETITIONS

In re Application of :
Marlin C. Smith, Jr. :
Application No. 11/355,842 : DECISION ON PETITION
Filed: February 16, 2006 :
Attorney Docket No. PD-04W162 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 30, 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 timely obtained. Accordingly, the application became abandoned on May 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate 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. It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR

1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three- month extension of time fee submitted on August 18, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gabriel Fitch
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

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BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

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DEC 17 2008

In re Application of :
Gunter Woog :
Application No. 11/355,847 : DECISION ON PETITION
Filed: February 16, 2006 :
Attorney Docket No. P/116-27(1389.006) :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of October 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that prima facie places the application in a condition for allowance; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3728 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Oliver C. Mullins, et al. :
Application No. 11/355,850 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. 62.0008 : FROM RECORD
:

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 27, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schlumberger Oilfield Services has been revoked by the assignee of the patent application on March 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHLIMBERGER INFORMATION SOLUTIONS
5599 SAN FELIPE
SUITE 700
HOUSTON, TX 77056-2722

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,850	02/16/2006	Oliver C. Mullins	62.0008

CONFIRMATION NO. 1567

37462
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

POA ACCEPTANCE LETTER

OC00000029677834

Date Mailed: 06/16/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2008.

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

/evburns/

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
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.
11/355,877	02/16/2006	Francis Denis	MSDI-340/P21467.00	3187

52196 7590 10/31/2008

KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS, IN 46204-2709

EXAMINER	
BOLES, SAMEH RAAFAT	
ART UNIT	**PAPER NUMBER**
3775	

MAIL DATE	DELIVERY MODE
10/31/2008	PAPER

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

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

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

10/31/08

In re Application of:
DENIS, FRANCIS
Serial No.: ~~11/355,887~~ 11/355877
Filed: Feb. 16, 2006
Docket: MSDI-340/P21467.00
Title: MULTI-THREAD BONE SCREW AND METHOD

DECISION ON PETITION

This is a decision on the petition filed on Oct. 28, 2008 seeking withdrawal of the finality of the Office action mailed Oct. 23, 2008. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record shows that claims 15 and 19 were amended in independent form without adding other limitations in the Rule 1.111 amendment filed on Sep. 5, 2008. Therefore, the rejection of at least claims 15 and 19 was not necessitated by the amendment filed on Sep. 5, 2008. As such, the finality of the Office actions issued on Oct. 23, 2008 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on Oct. 23, 2008 will be designated as non-final Office action. The period to respond to the Office action of Oct. 23, 2008 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action dated Oct. 23, 2008 will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Oct. 23, 2008 is hereby withdrawn. The requested relief is granted.

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

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Hensley Kim & Holzer, LLC
1660 Lincoln Street, Suite 3000
Denver, CO 80264

COPY MAILED

NOV 2 6 2008

OFFICE OF PETITIONS

In re Application of :
Martin S. Giniger :
Application No. 11/355,923 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 396-006-USP : 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 31, 2008.

The request is **APPROVED**.

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

The request was signed by Richard J. Holzer, Jr. on behalf of all attorneys/agents associated with customer number 45346. All attorneys/agents associated with customer number 45346 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Martin Giniger
GRINrx Corporation
93 South Jackson Street
Suite 51006
Seattle, WA 98104-2818

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,923	02/15/2006	Martin S. Giniger	396-006-USP

CONFIRMATION NO. 9909

45346
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

POWER OF ATTORNEY NOTICE

OC000000033322126

Date Mailed: 11/26/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2008.

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

/kainabinet/

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

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of
Martin S. Giniger
Application No. 11/355,924
Filed: February 15, 2006
Attorney Docket No. 14475.857US01

DECISION ON PETITION
TO WITHFRAW
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 31, 2008.

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

A review of the file record indicates that the power of attorney to the firm of Hensley Kim & Holzer, LLC has been revoked by the assignee on December 12, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: BERENBAUM, WEINSHIENK & EASON, P.C
370 17TH STREET
SUITE 4800
DENVER CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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OFFICE OF PETITIONS

In re Application of	:	
Martin S. Giniger et al.	:	
Application No. 11/355,925	:	DECISION ON PETITION
Filed: February 15, 2006	:	TO WITHFRAW
Attorney Docket No. 14475.861US02	:	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 31, 2008.

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

A review of the file record indicates that the power of attorney to the firm of Hensley Kim & Holzer, LLC has been revoked by the assignee on December 12, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: BERENBAUM, WEINSHIENK & EASON, P.C
370 17TH STREET
SUITE 4800
DENVER CO 80202

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of:
ICHIHARA, TAKASHI
Application Serial No.: 11/355,938
Filed: February 16, 2006
For: **OPERATION DIAL WITH ROTARY ENCODER**

DECISION
ON PETITION

This is a decision on the petition filed on December 30, 2009, to invoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181 for acknowledgement of priority claim.

The petition is **Granted**.

Applicant requests that the USPTO issue a Supplemental Notice of Allowance in the above-identified application in which Applicants priority claim is acknowledged. Applicant states:

> "The above-identified application claims priority to JP 2005-040542. A certified copy of the priority document was filed with the originally filed application on February 16, 2006. There is no USPTO correspondence which acknowledges the filing of the certified copy and the priority claim. Acknowledgment of the priority claim and the certified copy is respectfully requested."

A review of the file record reveals that a claim for foreign priority to Japan application number 2008-040542 was made, at the time of filing the application, in the declaration filed February 16, 2006. Filed concurrently with the declaration was a certified copy of the foreign priority document JP2005-040542. None of the subsequent USPTO correspondence acknowledges the filing of the claim for foreign priority.

The application is being returned to the examiner for issuance of a Supplemental Notice of Allowability in order to acknowledge Applicant's claim for foreign priority. Applicants request for suspension will not be considered at this time since the request was not filed separately in accordance with 37 CFR 1.103. Applicant is reminded that the Issue fee and publication fee (if required) are due within three months of the mail date of the Notice of Allowance and Fee due document (12/23/09).

/Michael Horabik/

Michael Horabik,
Quality Assurance Specialist
Technology Center 2600
Communications

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JJGJR.: 09-07

Paper No: __

JOSEFINO P. DE LEON
SHLESINGER, ARKWRIGHT
& GARVEY LLP
SUITE 600
1420 KING STREET
ALEXANDRIA VA 22314

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of
Kahl
Application No.: 11/355,943
Filing Date: 17 February, 2006
Attorney Docket No. 7004-2

DECISION

This is a decision on the petition filed on 7 June, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

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

NOTES:

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

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 29 August, 2006, with reply due absent extension of time on or before 29 November, 2006;
- the application went abandoned by operation of law after midnight 29 November, 2006;
- the Office mailed a Notice of Abandonment on 4 June, 2007;
- on 7 June, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the final Office action, and made no statement of search and non-receipt, provided no docket records for the instant application or for the due date of the reply, but rather complained that the Office mailed the 29 August, 2006, Office action to the incorrect address–Petitioner's former address obtained by the Office from the oath/declaration submitted by Petitioner on filing–and Petitioner further attempts to list the sources from which the Office was to have drawn the information–to wit, the transmittal letter;

Petitioner's attention is drawn to the fact that the only paper specifying a "correspondence address" on filing was the oath/declaration that Petitioner apparently utilized from the parent application, and while the transmittal bears a letterhead, it does not specify a correspondence address. Petitioner apparently failed to file an application data sheet (ADA) or a complete transmittal form with correspondence address review sufficiently the application materials before

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

they were submitted–and so Petitioner submitted to the Office an old and out-dated correspondence address, and the record clearly indicates that Petitioner did nothing to cure this deficiency after the 17 February, 2006, filing until 26 April, 2007–more than fourteen (14) month later–and nearly five (5) months after application went abandoned.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (See, for example: MPEP §403 and §601.03.)

However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

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

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

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

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

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

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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

(4) Imposing a monetary sanction;

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

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

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

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

[4] 35 U.S.C. §133 provides:

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

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket

---

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

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

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

> records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

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

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

CONCLUSION

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

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[11]

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

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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

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

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

[14] 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.

IDS

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/355,943	02/17/2006	2642	500	7004-2	2	9	3

SHLESINGER, ARKWRIGHT & GARVEY LLP
3000 South Eads Street
Arlington, VA 22202

OIPE
MAR 28 2006
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 2757

FILING RECEIPT

OC000000018337161

Date Mailed: 03/22/2006

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)

Leo Kahl, Baltimore, MD;

Power of Attorney:

B Shlesinger Jr--17225
Donald Kolasch--23038
Brian Marton--30292
Michael Zadrozny--30985
Terrence Brown--32685
Josefino de Leon--33166

Domestic Priority data as claimed by applicant

This application is a CON of 10/652,551 09/02/2003
which is a CON of 09/656,268 09/06/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/355,943

Projected Publication Date: 06/29/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Shrink wrap protection for portable wireless devices

Preliminary Class

379

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).

m-f

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.
11/355,943	02/17/2006	Leo Kahl	7004-2	2757

7590 08/29/2006

SHLESINGER, ARKWRIGHT & GARVEY LLP
3000 South Eads Street
Arlington, VA 22202

EXAMINER
NGUYEN, TUAN DUC

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 08/29/2006

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

Office Action Summary	Application No.	Applicant(s)	
	11/355,943	KAHL, LEO	
	Examiner	Art Unit	
	Tuan D. Nguyen	2614	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *17 February 2006*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

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

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

Application Papers

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

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *02/17/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract has two paragraphs. It should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by the applicant's cited reference JP2000-138738 (Ishimura Mamoru). Regarding claim 1, Mamoru discloses a method for protecting a portable wireless device, comprising: a) providing a heat-shrinkable, light transmitting plastic bag (11); b) inserting the wireless device (1) within the bag; and c) heat shrinking the bag (11, see fig. 1) to intimately contact the outer surfaces of the wireless device with the interior surface of the bag.

Regarding claim 4, Mamoru discloses a portable wireless device, comprising: a) a plastic layer (11) disposed over the outer surfaces of said device (1), said plastic layer being formed from a heat-shrinkable, light transmitting plastic bag adapted to receive completely therein said device and then heat-shrinking said bag (11, see fig. 1).

Regarding claim 7, Mamoru discloses a protective bag for a portable wireless device, comprising: a) a heat-shrinkable, light transmitting plastic bag (11), adapted to receive completely therein the portable wireless device (1), wherein said plastic bag is heat-shrunk to intimately contact the outer surfaces of the device with the interior surface of said bag (11, see fig. 1).

Regarding claims 2, 3, 5, 6, 8 and 9, Mamoru also shows that the bag is made from iridescent light transmitting ink with a graphic indicia (see fig. 2).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (571) 272-8163. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

TDN
8/24/06

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/355,943	02/17/2006	Leo Kahl	7004-2

CONFIRMATION NO. 2757

SHLESINGER, ARKWRIGHT & GARVEY LLP
3000 South Eads Street
Arlington, VA22202

Title: Shrink wrap protection for portable wireless devices

Publication No. US-2006-0140394-A1
Publication Date: 06/29/2006

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently http://www.uspto.gov/patft/.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 703-305-3028.

Pre-Grant Publication Division, 703-605-4283

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1420 KING STREET
ALEXANDRIA VA 22314

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of
Kahl
Application No.: 11/355,943
Filing Date: 17 February, 2006
Attorney Docket No. 7004-2

DECISION

This is a decision on the petition filed on 9 November, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

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

As to the Allegations
of Unintentional Delay

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

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 August, 2006, with reply due absent extension of time on or before 29 November, 2006.

The application went abandoned by operation of law after midnight 29 November, 2006.

The Office mailed a Notice of Abandonment on 4 June, 2007.

On 7 June, 2007, Petitioner filed a petition under 37 C.F.R. §1.181, with, *inter alia*, an averment that he did not receive a copy of the final Office action, and made no statement of search and non-receipt, provided no docket records for the instant application or for the due date of the reply, but rather complained that the Office mailed the 29 August, 2006, Office action to the incorrect address–Petitioner's former address obtained by the Office from the oath/declaration submitted by Petitioner on filing–and Petitioner further attempted to list the sources from which the Office was to have drawn the information–to wit, the transmittal letter. Petitioner's attention was drawn to the fact that the only paper specifying a "correspondence address" on filing was the oath/declaration that Petitioner apparently utilized from the parent application, and while the transmittal bears a letterhead, it does not specify a correspondence address. Petitioner apparently failed to file an application data sheet (ADA) or a complete transmittal form with correspondence address review sufficiently the application materials before they were submitted–and so Petitioner submitted to the Office an old and out-dated correspondence address, and the record clearly indicates that Petitioner did nothing to cure this deficiency after the 17 February, 2006, filing until 26 April, 2007–more than fourteen (14) month later–and nearly five (5) months after application went abandoned.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (See, for example: MPEP §403 and §601.03.) However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

And so the petition was dismissed on 24 September, 2007, for failure to make the proper showing as outlined in MPEP §711.03(c).

On 9 November, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. 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**.

The instant application is released to Technology Center/AU 2614 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

---

[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.))

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.
Senior Attorney
Office of Petitions

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 02-07

Paper No: __

OBLON, SPIVAK, MCCLELLAND,
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ALEXANDRIA VA 22314

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Aoki :
Application No. 11/355,944 : ON PETITION
Filed: 17 February, 2006 :
Attorney Docket No. 286330US3 :

This is a decision on the papers considered as a petition filed on 20 October, 2006, under 37 C.F.R. §1.47.

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the instant application was filed on 17 February, 2006, without, *inter alia*, a fully executed oath/declaration;

- on 19 March, 2006, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 20 October, 2006, Petitioner Gregory J. Maier (Reg. No. 25,599) filed, *inter alia*, the instant petition, and, *inter alia*, an unexecuted oath/declaration submitted on behalf of the non-signing inventor Eisuke Aoki (Mr. Aoki), and there does not appear to be a statement of authority for signing by the authorized agent of the averred assignee or a signature thereby on the oath/declaration (with identification of the signor) on behalf of the non-signing inventor, nor is there a narrative evidencing the diligence in determining the current/reasonably believed last known address for the non-signing inventor (particularly in that it does not appear that the first correspondence was signed for and the second correspondence was not claimed but rather was returned)–again Petitioner's attention is drawn to oath/declaration to be executed by the authorized officer of the Assignee (with evidence/statement authorizing signature by said officer) as such requirements are set forth at 37 C.F.R. §1.47 and discussed at length at MPEP §409.03(b).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

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

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

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

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

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

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

---

modification, or reversal of existing law or the establishment of new law;

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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

(4) Imposing a monetary sanction;

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

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

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

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

> (3) 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.

Alternatives

When it is a matter that Petitioner submits a wholly unsigned oath/declaration, the commentary at MPEP §409.03(b) provides that, where no inventors are available to sign:

> **409.03(b) No Inventor Available**
>
> Filing under 37 C.F.R. 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "can-not be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 C.F.R. 1.47(a) is available, application cannot be made under 37 C.F.R. 1.47(b).
>
> In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited pursuant to 37 C.F.R. 1.47(b) must meet the following requirements:
>
> (A) The 37 C.F.R. 1.47(b) applicant must make the oath required by 37 C.F.R. 1.63 and 1.64 or 1.175. Where a corporation is the 37 C.F.R. 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by

> 37 C.F.R. 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 C.F.R. 1.47(b).
>
> (B) The 37 C.F.R. 1.47(b) applicant must state his or her relationship to the inventor as required by 37 C.F.R. 1.64.
>
> (C) The application must be accompanied by proof that the inventor (1) cannot be found or reached after a diligent effort or (2) refuses to execute the application papers. See MPEP §409.03(d).
>
> (D) The last known address of the inventor must be stated. See MPEP §409.03(e).
>
> (E) The 37 C.F.R. 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. See MPEP §409.03(f).
>
> (F) The 37 C.F.R. 1.47(b) applicant must prove that the filing of the application is necessary (1) to pre-serve the rights of the parties or (2) to prevent irreparable damage. See MPEP §409.03(g).

Thus, a registered practitioner signing on behalf of the assignee, must state affirmatively that the practitioner is authorized to so sign. (MPEP §409.03(b)).

When one alleges a refusal of the inventor(s) or unavailability of the inventor(s) 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.[2])

[2] See: MPEP 409.03(b).

CONCLUSION

Petitioner's attention is directed to the closing item(s) set forth in the background as that/those to be addressed in any renewed petition–to wit: at least a petition, Petitioner's own representation(s) before the Office, and any transmittal/cover letter evidencing the transmittal of the entire application to the non-signing inventor for review before having the opportunity to sign the oath/declaration.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[3]

By mail: Commissioner for Patents[4]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

[3] On July 15, 2005, the Central Facsimile (FAX) Number was changed to (571) 273-8300. Faxes sent to the old number are not routed to the new number, and (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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

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

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

§1.2 Business to be transacted in writing.

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

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.
11/355,957	02/17/2006	Hisashi Matsuyama	127087	1008

7590 02/05/2008

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

EXAMINER	
VU, NGOC YEN T	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
02/05/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 02/06/2008 KKING1
02/21/2006 KBETEMA1 00000063 11355957
02 FC:1111 -500.00 OP

Repln. Ref: 02/06/2008 KKING1 0016033300
DA#:150461 Name/Number:11355957
FC: 9204 $500.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

COPY MAILED

OCT 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Masaya Ibe, et al.	:	
Application No. 11/355,973	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 125823	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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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www.uspto.gov

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

Mail Date: 06/10/2010

Applicant	: Fumio Koyama	: DECISION ON REQUEST FOR
Patent Number	: 7659874	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/356,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1029** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

COPY MAILED

AUG 25 2008

In re Application of :
Jim PAGE et al. :
Application No. 11/356,158 : DECISION ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. **76914-200701/US** :

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 application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 09, 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 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 election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction requirement is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 1614 for appropriate action on the concurrently filed election.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **SQUIRE, SANDERS & DEMPSEY L.L.P**
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 102039.00011

First named inventor: Jim PAGE, et al.

Application No.: 11/356,158 Art Unit: 1614

Filed: February 15, 2006 Examiner: PAGONAKIS, Anna

Title: Use of cicletanine and other furopyridines for treatment of systolic-predominant hypertension, isolated systolic hypertension, elevated pulse pressure, and general hypertension

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Restriction Requirement (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	May 15, 2008 Date
Wayne A. Jones Typed or printed name	30,761 Registration Number, if applicable
Address	(650) 843-3392 Telephone Number
Customer Number 30256 Address	

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11356158 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/16/2008	00006992	4	2453	$770.00	05/15/2008	DA 050150
06/23/2006	00000027	1	2051	$65.00	06/22/2006	DA 502638
06/23/2006	00000028	1	2251	$60.00	06/22/2006	DA 502638
02/21/2006	00000173	1	2011	$150.00	02/15/2006	DA 502638
02/21/2006	00000174	1	2111	$250.00	02/15/2006	DA 502638
02/21/2006	00000175	1	2311	$100.00	02/15/2006	DA 502638

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Christian Georg Gerlach	: DECISION ON REQUEST FOR
Patent Number	: 7593316	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Raymond N. Baker, Esquire
814
2801 New Mexico Avenue, N.W.
Washington, DC 20007

Mail Date: 04/21/2010

Applicant	: Reginald A. Mbachu	: DECISION ON REQUEST FOR
Patent Number	: 7641826	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Raymond N. Baker, Esquire
814
2801 New Mexico Avenue, N.W.
Washington, DC 20007

Mail Date: 05/18/2010

Applicant : Reginald A. Mbachu
Patent Number : 7641826
Issue Date : 01/05/2010
Application No: 11/356,175
Filed : 02/17/2006

: 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 **969** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/356,181	02/17/2006	Andrew MacGregor Ritchie	1561-94	1856

23117 7590 10/23/2009

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

EXAMINER	
MOBIN, HASANUL	
ART UNIT	**PAPER NUMBER**
2168	
MAIL DATE	**DELIVERY MODE**
10/23/2009	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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Larry S. Nixon
NIXON & VANDERHYE P.C.
901 North Glebe Road
P.O. Box 14300
Washington, DC 20044-4300

In re Application of:	)	
Aruna Rohra Suda	)	
Application No. 11/200,540	)	**DECISION ON PETITION**
Filed: August 10, 2005	)	**UNDER 37 CFR § 1.181**
For: METHOD AND APPARATUS FOR PROCESS DATA ACQUIRED VIA INTERNET	)	

This is a decision on the Petition to Withdraw Finality of Office Action, filed on 18 September 2009, under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

BACKGROUND

On 06 July 2009, applicant filed a RCE and an amendment to independent claims 1, 12, 22, 32, 46, 47, 50-53 and 70.

On 14 September 2009, the examiner finally rejected all claims 1-4, 7-10, 12-15, 18-24, 26-34, 36-41, 46, 47, 50-53 and 62-71 in the first Office action immediately after filing a RCE.

On 18 September 2009, applicant filed a petition to withdraw the finality of Office Action mailed 14 September 2009.

RULES AND PROCEDURES

MPEP § 706.07(b) states in part that:

> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application ...

MPEP § 706.07(h)(VIII) states that:

> The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) for making a first action final in a continuing application are met.

DECISION

A review of the application file indicates that the examiner has introduced and applied one or more newly cited references to the rejections of claims 1-4, 7-10, 12-15, 18-24, 26-34, 36-41, 46, 47, 50-53 and 62-71 in the Office Action mailed 14 September 2009 (immediately after filing RCE). A further review of the Office Action mailed 14 September 2009, it appears that the Office Action was not meant to be made FINAL by the examiner, and appears that a clerical error has been made on the Office Action Summary (PTOL-326), item 2a. Furthermore, the Patent Application Locating and Monitoring (PALM) system indicates that the Office Action is a non-final Office Action.

For the above stated reasons, the petition is **GRANTED.** The Office Action mailed on 14 September 2009 is been considered as a non-final Office Action. The shortened statutory period for reply as set forth in the Office Action of 14 September 2009 will not be reset and is continued to run from the mailing date of 14 September 2009.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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ARLINGTON VA 22203

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NOV 03 2006
OFFICE OF PETITIONS

In re Application of	:	
KONDO	:	
Application No. 11/356,192	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2018-1285	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 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 September 29, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 3747 processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Kuan-Kai Juan	: DECISION ON REQUEST FOR
Patent Number	: 7609599	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **845** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/356,240	02/17/2006	Yong-Wan Jin	P57872	1981

8439 7590 10/23/2009

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER	
CULBERT, ROBERTS P	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
10/23/2009	PAPER

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

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

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wk

Mailed: 10/23/09

In re application of	:	
Yong-Wan et al.	:	DECISION ON
Serial No. 11/356,240	:	PETITION
Filed: February 17, 2006	:	
For: Method Of Preparing Catalyst For Synthesis Of Carbon Nanotubes And Method Of Synthesizing Carbon Nanotubes using The Same		

This is a response to a Petition under 37 C.F.R. 1.181 filed March 18, 2009 requesting confirmation and receipt of the foreign priority document.

A review of the application shows that the application was abandoned on September 16, 2009.

DECISION

The Petition is **DISMISSED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

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

In re Application of	:	
Yasuji Hiramatsu	:	
Application No. 11/356,246	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 285537US40DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Yasuji Hiramatsu	:	
Application No. 11/356,246	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 285537US40DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 6, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Yasuji Hiramatsu	:	
Application No. 11/356,246	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 285537US40DIV	:	

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

The petition is **GRANTED**.

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

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

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. 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 3742 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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MAR 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Yasuji Hiramatsu	:	
Application No. 11/356,259	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 285529US40DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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JUL 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Yasuji Hiramatsu	:	
Application No. 11/356,259	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 285529US40DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/356,263	02/17/2006	Eiichi Shiki	286206US-2 CONT	1791

7590 07/07/2008

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

EXAMINER	
CASLER, BRIAN L	

ART UNIT	PAPER NUMBER
3737	

NOTIFICATION DATE	DELIVERY MODE
07/07/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
07/09/2008 0030058131

Credit Card Refund Total: $860.00

Am Exp..: XXXXXXXXXX1001

Adjustment date: 07/09/2008 NFARMER
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02 FC:1111 -500.00 OP
04 FC:1203 -360.00 OP

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GARDERE WYNNE SEWELL LLP
3000 THANKSGIVING TOWER
1601 ELM STREET, SUITE 3000
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of
McMahon
Application No. 11/356,268
Filed: February 16, 2006
Docket No.: 125426-1107

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed April 6, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed November 2, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 2800 for further processing.

The correspondence address indicated in the instant petition differs from that contained in the record. Petitioner is advised that all future correspondence regarding this application will be directed to the correspondence address of record until such time as appropriate instruction and documentation is received to the contrary.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: MARTIN,MICHAEL
Gardere Wynne Sewell LLP
1601 Elm St Ste 3000
Dallas, TX 75201

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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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Mamdouh Yanni :
Application No. 11/356,271 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. PA4291US : FROM RECORD
:

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 23, 2008 and resubmitted June 2, 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 V. Randall Gard 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.

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

There is an outstanding Office action mailed September 16, 2008 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: DESTINATOR TECHNOLOGIES, INC.
ATTENTION: CAROL BEDFORD
95 MURAL STREET
6TH FLOOR
RICHMOND HILL, ONTARIO L4B 3G2
CANADA

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
11/356,271	02/15/2006	Mamdouh Yanni	PA4291US

CONFIRMATION NO. 1752

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

OC000000033236087

Date Mailed: 11/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2008.

- 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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DRW Jun-06

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

COPY MAILED
JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Arai et al. :
Application No. 11/356,278 : DECISION ON PETITION
Filed: 17 February, 2006 :
Atty Docket No. 056203.57427US :

This is a decision on the petition filed on 28 April, 2006, requesting that the above-identified application be accorded a filing date of 17 February, 2006, with Page 13 of the specification as a part of the original disclosure.

The petition is granted.

On 17 February, 2006, the application was filed.

Accordingly, on 11 April, 2006, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 17 February, 2006, but that Page 13 of the specification (description and claims) appeared to have been omitted.

In response, on 28 April, 2006, the present petition and a copy of Page 13 were filed. Petitioners argue that Page 13 of the specification was filed with the other application papers on 17 February, 2006, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of "021706" and contains the above-identified application number, and identifies the application by the attorney docket number, first named inventor's name, and acknowledges receipt of, *inter alia*, "Specification, 9 claims and Abstract (pages 1-81)." Petitioners request that the application, including Page 13 of

the specification, be accorded a filing date of 17 February, 2006.

A review of the record reveals that Pages 1-12 and 14-81 of the specification, including the claims and one (1) page of abstract, have been located among the original application papers. No Page 13 of the specification have been located among the application papers received on 17 February, 2006. However, the evidence is convincing that the application papers deposited on 17 February, 2006, included Page 13 of the specification (written description), which was subsequently misplaced in the Office. Therefore, the application, including Page 13 of the specification, is entitled to a filing date of 17 February, 2006.

The "Notice" mailed on 11 April, 2006, is vacated.

In view of the above, the petition is granted. As the petition was necessitated by Office error, the petition fee is unnecessary and will be refunded.

The application will be processed with the copy of Page 13 of the specification supplied on 28 April, 2006, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 17 February, 2006, using the application papers filed on that date, and the copy of Page 13 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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CASTELLANO, PLLC
P.O. Box 1555
Great Falls, VA 22066

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FEB 22 2008

OFFICE OF PETITIONS

In re Application of :
Romain Pallardy :
Application No. 11/356,286 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. 1410.001.0002 : 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 November 19, 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 Kristina Castellano on behalf of all attorneys of record who are associated with customer No. 43446. All attorneys/agents associated with the Customer Number 43446 have been withdrawn.

The correspondence address has been changed to that of the applicant and is copied below.

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

A non-final rejection was mailed on July 20, 2007. If no reply was filed on or before January 20, 2008, this case is now abandoned.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Romain Pallardy
127 East 60th Street
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/356,286	02/17/2006	Romain Pallardy	1410.001.0002

CONFIRMATION NO. 1781

POWER OF ATTORNEY NOTICE

43446
CASTELLANO PLLC
P.O. Box 1555
Great Falls, VA 22066

Date Mailed: 02/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/19/2007.

- 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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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	: Ryan Richards	: DECISION ON REQUEST FOR
Patent Number	: 7608238	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HENSLEY, KIM & HOLZER, LLC
1660 LINCOLN STREET
SUITE 3000
DENVER, CO 80264

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JAN 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven Blumenau	:	
Application No. 11/356,316	:	DECISION ON PETITION
Filed: February 15, 2006	:	TO WITHDRAW
Attorney Docket No. 396-010-USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Choate, Hall & Stewart, LLP has been revoked by the assignee of the patent application on November 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 undersigned at 571-272- 1642.

/AMW
April M. Wise
Petitions Examiner
Office of Petitions

cc: DR MARTIN GINIGER
GRINRX CORPORATION
93 SOUTH JACKSON STREET
SUITE 51006
SEATTLE, WA 98104-2818

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

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OFFICE OF PETITIONS

In re Application of	:	
Martin S. GINIGER	:	
Application No. 11/356,317	:	DECISION ON PETITION
Filed: February 15, 2006	:	TO WITHDRAW
Attorney Docket No. 396-011-USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

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

A review of the file record indicates that the power of attorney to Hensley Kim & Holzer, LLC, 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 be directed to the address indicated below until otherwise notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR. MARTIN GINIGER
CRINRX CORPORATION
93 SOUTH JACKSON STREET,
SUITE 51006
SEATTLE, WA 98104-2818

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

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FEB 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Cormier et al. :
Application No. 11/356,339 : ON PETITION
Filed: 02/16/2006 :
Attorney Docket No. ARC2589US DIV2 :

This is in response to the copy of the petition under 37 CFR 1.47(a), submitted concurrently with the filing of the above-identified application on February 16, 2006.

Applicants submitted a copy of the petition under 37 CFR 1.47(a) filed in parent Application No. 09/190,887. The petition was granted in parent Application No. 09/190,887 on July 7, 1999. The present application is a divisional application of Application No. 09/190,887, filed November 12, 1998.

As stated in Section 201.06(c)(V)(I) of the Manual for Patent Examining Procedure:

> 37 CFR 1.63(d)(3) provides for the situation in which the executed oath or declaration, of which a copy is submitted for a continuation or divisional application, was originally filed in a prior application accorded status under 37 CFR 1.47. 37 CFR 1.63(d)(3)(i) requires a copy of any decision granting a petition to accord 37 CFR 1.47 status to such application, unless all nonsigning inventor(s) or legal representative (pursuant to 37 CFR 1.42 or 1.43) have filed an oath or declaration to join in an application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121 or 365(c). Where one or more, but not all, nonsigning inventor(s) or legal representative (pursuant to 37 CFR 1.42 or 1.43) subsequently joins in any application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121 or 365(c), 37 CFR 1.63(d)(3)(ii) also requires a copy of any oath or declaration filed by the inventor or legal representative who subsequently joined in such application.

The petition was not accompanied by a copy of the decision granting the petition under 37 CFR 1.47(a) in the prior application. However, in order to expedite processing of this application, a copy of the decision granting 37 CFR 1.47(a) status in the parent application has been placed in the present divisional application.

The above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby accorded rule 1.47(a) status. As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is **dismissed as moot.**

Pursuant to 37 CFR 1.47(c), the Office is dispensing with the notice provision in the present application because notice was provided after the grant of Rule 1.47(a) status in the prior application.

This matter is being referred to Technology Center Art Unit 1639 for examination in due course

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD
SUITE NO. 406
PALO ALTO, CA 94303

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Thomas A. Dollmeyer, et al. :
Application No. 11/356,346 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. 8-02-12767/3368P : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sawyer Law Group, LLP has been revoked by the assignee of the patent application on February 12, 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.

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

cc: CUMMINS INC.
ATTN: INTELLECTUAL PROPERTY GROUP
500 JACKSON STREET
COLUMBUS, IN 47201

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Sawyer Law Group, LLP
2465 E. Bayshore Road, Suite No. 406
Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Thomas A. Dollmeyer et al. :
Application No. 11/356,363 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. 8-02-12747/3371P : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 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 Joseph A. Sawyer, Jr. on behalf of all attorneys/agents associated with customer number 29241. All attorneys/agents associated with customer number 29141 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below, since no assignee has properly intervened. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted if an assignee has interest in this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas A. Dollmeyer
12730 Baker Hollow Road
Columbus, IN 47201

cc: Cummins Inc.
Attn: Intellectual Property Group
500 Jackson Street
Columbus, IN 47201

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
11/356,363	02/16/2006	Thomas A. Dollmeyer	8-02-12747/3371P

CONFIRMATION NO. 1726

POWER OF ATTORNEY NOTICE

29141
SAWYER LAW GROUP LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

OC000000034895377

Date Mailed: 03/10/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2009.

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

/kainabinet/

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

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Christian Georg Gerlach	: DECISION ON REQUEST FOR
Patent Number	: 7596080	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,370	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 16 2010

In re Application of :
David Shaft, et al. :
Application No.: 11/356,386 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No.: 09623C-062300US :

This is a decision on the petition, filed February 10, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2629 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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FRED STERZER
MMTC, INC.
SUITE A-203
12 ROSZEL ROAD
PRINCETON NJ 08540

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OFFICE OF PETITIONS

In re Application of :
Fred Sterzer et al. :
Application No. 11/356,412 : DECISION ON PETITION
Filed: February 17, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. MMTC 05-1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The 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 2838 for action on the merits commensurate with this decision.

Terri Williams
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

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

Mail Date: 04/21/2010

Applicant	: Gregory S. Rawlins	: DECISION ON REQUEST FOR
Patent Number	: 7653158	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: William Gross	: DECISION ON REQUEST FOR
Patent Number	: 7603191	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Hensley Kim & Holzer, LLC
1060 Lincoln Street, Suite 3000
Denver, CO 80264

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NOV 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin S. Giniger	:	
Application No. 11/356,445	:	DECISION ON PETITION
Filed: February 15, 2006	:	TO WITHDRAW
Attorney Docket No. 396-005-USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 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 Richard J. Holzer, Jr. 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 Martin S. Giniger at the first copied address indicated below.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Martin S. Giniger**
315 West 39th Street, 11th Floor
New York, NY 10018

cc: **Dr. Martin Giniger**
GRINrx Corporation
93 South Jackson Street, Suite 51006
Seattle, WA 98104-2818

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/356,445	02/15/2006	Martin S. Giniger	396-005-USP

CONFIRMATION NO. 9688

45346
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

POWER OF ATTORNEY NOTICE

OC000000033126673

Date Mailed: 11/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2008.

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

/tswilliams/

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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Marc Christian Metzger	: DECISION ON REQUEST FOR
Patent Number	: 7662155	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,446	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **750** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SQUIRE SANDERS & DEMPSEY LLP
TWO RENAISSANCE SQUARE, 40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX AZ 85004-4498

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OFFICE OF PETITIONS

In re Application of :

FURMANSKI, Christopher et al. :
Application No. 11/356,464 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. **65925.00002** : FROM RECORD
:

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 27, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **SQUIRE SANDERS & DEMPSEY LLP**
TWO RENAISSANCE SQUARE
40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX, AZ 85004-4498

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United States Patent and Trademark Office
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TWO RENAISSANCE SQUARE, 40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX AZ 85004-4498

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DEC 0 8 2008

In re Application of :

FURMANSKI, Christopher et al. :
Application No. 11/356,464 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. **65925.00002** : FROM RECORD
:

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 08, 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 Alex Starkovich on behalf of all attorneys of record who are associated with customer No. 23619. All attorneys/agents associated with the Customer Number 23619 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 Christopher Furmanski at the address indicated below. There is an outstanding Office action mailed September 26, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CHRISTOPHER FURMANSKI**
4096 PIEDMONT AVENUE #209
OAKLAND CA 94611

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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DEC 1 8 2009

OFFICE OF PETITIONS

In re Application of :
John Crescenti, et al. :
Application No. 11/356,467 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. COMMV.031C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 11, 2008. The Notice of Abandonment was mailed February 26, 2009.

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

Item 1

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

Item 3

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 Mr. Marcus S. Miller, where it appears he is signing on behalf of the assignee. 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 Marcus S. Muller 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. Marcus S. Muller 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. Marcus S. Miller 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).

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.

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Marcus S. Muller**
CommVault Systems, Inc.
2 Crescent Place
P.O. Box 900
Oceanport, NJ 07757

Enclosed: Examiner's Advisory Action PTOL-303 & Notice of Non-Compliant Amendment PTOL-324

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/356,467	CRESCENTI ET AL.	
	Examiner	Art Unit	
	DANIEL KUDDUS	2164	

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

The amendment document filed on *14 October 2009* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *see Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/dk/ Daniel Kuddus Examiner	/Charles Rones/ Supervisory Patent Examiner, Art Unit 2164

Continuation of 4(e) Other: Applicant's submitted claims on October 10, 2009, the claim numbering is different from that submitted on April 23, 2008. The claims (i.e. claims 7-34) submitted on April 23, 2008 have been finally rejected. Examiner maintains the final rejection, which was mailed on Jun 10, 2008. .

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/356,467	**Applicant(s)** CRESCENTI ET AL.	
	Examiner DANIEL KUDDUS	**Art Unit** 2164	

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

THE REPLY FILED 14 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *7-34*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/dk/
Daniel Kuddus
Examiner

Applicant's submitted claims on October 10, 2009, the claim number is different from that submitted on April 23, 2008. The claims (i.e. claims 7-34) submitted on April 23, 2008 have been finally rejected. Examiner maintains the final rejection, which was mailed on Jun 10, 2008.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
John Crescenti, et al. :
Application No. 11/356,467 : ON PETITION
Filed: February 15, 2006 :
Attorney Docket No. COMMV.031C1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2010, 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 June 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 11, 2008. The Notice of Abandonment was mailed February 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/702,716.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Marcus S. Muller**
CommVault Systems, Inc.
2 Crescent Place
P.O. Box 900
Oceanport, NJ 07757

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DEC 18 2008

OFFICE OF PETITIONS

HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

In re Application of :
Martin S. GINIGER :
Application No. 11/356,468 : DECISION ON PETITION
Filed: February 15, 2006 : TO WITHDRAW
Attorney Docket No. 396-009-USP : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

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

A review of the file record indicates that the power of attorney to Hensley Kim & Holzer, LLC, 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 be directed to the address indicated below until otherwise notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR. MARTIN GINIGER
CRINRX CORPORATION
93 SOUTH JACKSON STREET,
SUITE 51006
SEATTLE, WA 98104-2818

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of :

Robert O. Sharp et al. :
Application No. 11/356,493 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. 630-0003US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 28, 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 Keith Lutsch on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ROBERT O. SHARP**
3 HILLVIEW
ROUND ROCK, TX 78664

cc: **HUFFMAN LAW GROUP, P.C.**
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

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
11/356,493	02/17/2006	Robert O. Sharp	630-0003US

CONFIRMATION NO. 3927

OC000000024146486

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

Date Mailed: 05/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2007.

- 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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Larry C. Wilkins	: DECISION ON REQUEST FOR
Patent Number	: 7604570	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **386** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281-2101

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Raya Levin et al.	:	
Application No. 11/356,513	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHDRAW
Attorney Docket No. 4517-4001US1	:	FROM RECORD
	:	

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 13, 2006.

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

A review of the file record indicates that the power of attorney to Morgan & Finnegan, L.L.P. has been revoked by the assignee of the patent application on November 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding**
1185 Avenue of the Americas
New York, NY 10036-4003

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/356,513	02/17/2006	Raya Levin	4517-4001US1

CONFIRMATION NO. 2050

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

OC000000023841107

Date Mailed: 05/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2006.

- 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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 30 2007

OFFICE OF PETITIONS

In re Application of :
KROCHMAL, Lincoln et al. :
Application No. 11/356,516 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. **021706-005610US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 09, 2007.

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

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on February 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NATH & ASSOCIATES**
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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MAY 22 2007

TECHNOLOGY CENTER 2100

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of: LUM
Application No. 11/356,555
Filed: February 16, 2006
For: PEER BASED NETWORK ACCESS CONTROL

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed August 24, 2006 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) **Submits a detailed discussion of the references**, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the

request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed August 24, 2006 fails to adequately meet requirement (e) of the criteria set forth above.

The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Reference is made to Petitioner's statement that claims 27 and 31 have similar elements to that of claim 1. However, it is noted that independent claim 1 does not appear to include the feature of "the first PVS being included in either the first DPEP or the second DPEP" (independent claim 27) and "a plurality of PFC" (independent claim 31). Furthermore, the language of "any DPEP may become APEP when DPEP determines that certain condition have been met" (emphasis added) does not appear to be the claim language, rather independent claim 1 recites "determining if either one of the first DPEP and the second DPEP is an APEP".

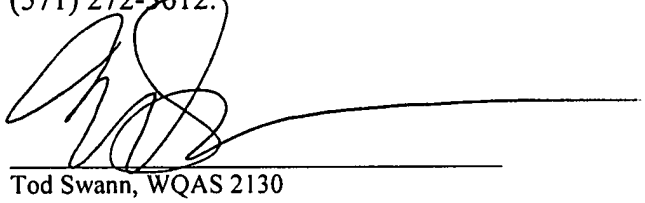
Petitioner should ensure that the above discussion is directed to how the language of **each of** the independent claims is **specifically** distinguishable and patentable from each of the references provided in requirement (d) above. The identification must be accurate and consistent with the language set forth in the (independent) claims of the instant application. It is suggested that the discussion of each reference be amended to address the concerns set forth in the immediately preceding paragraph.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612.



Tod Swann, WQAS 2130
Technology Center 2100
Computer Architecture, Software and Information Security

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JUN 03 2008

TECHNOLOGY CENTER 2100

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of: LUM
Application No. 11/356,555
Filed: February 16, 2006
For: PEER BASED NETWORK ACCESS CONTROL

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the refiled petition filed July 23, 2007 of the original petition filed August 24, 2006 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special which was dismissed on May 22, 2007.

This Petition is **Granted**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met including the discussion of the prior art with respect to claims 27 and 31 which were deficient in the original petition.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612.

/Tod Swann, WQAS/

Tod Swann, WQAS 2130
Technology Center 2100
Computer Architecture, Software and Information Security

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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NOV 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter Nevermann	:	
Application No. 11/356,595	:	DECISION ON PETITION
Filed: February 16, 2006	:	
Attorney Docket No. 2006P03162US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 17, 2008 . Accordingly, the date of abandonment of this application is April 18, 2008. The Notice of Abandonment was mailed May 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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 Terri Williams at (571) 272-2991.

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

Chris Bottorff
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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Date October 30, 2009

Patent No. :7478218
Inventor :Derek L. Bruening et al.
Patent Issued :7,478,218
Title :ADAPTIVE CACHE SIZING BASED ON MONITORING OF REGENERATED AND :REPLACED CACHE ENTRIES

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the statement regarding federally sponsored research; the letters patent with regard to applicants request is considered in accordance with the records within the Patent and Trademark office and, as the result of further review has been determined that the changes requested with respect to the above is not warranted as filed. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 .

In view of the foregoing applicants request in this matter is hereby denied.

To further consider your request regarding this matter, a request for reconsideration filed under 37 CFR 1.323 which includes the required Certificate of Correction fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Karen Moir,VNware, Inc
3401 Hillview Avenue
Palo Alto, CA 94304

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :October 30, 2009

Patent No. :7478218
Inventor(s) :Derek L. Bruening et al.
Issued :January 13, 2009
Title :ADAPTIVE CACHE SIZING BASED ON MONITORING OF REGENERATED AND :REPLACED CACHE ENTRIES

Re: Request for Certificate of Correction

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

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

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

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

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Karen Moir, VMware, Inc.
3401 Hillview Avenue
Palo Alto, CA 94304

/arg

Newsome, Lamonte

From: Wilder, Cynthia
Sent: Monday, June 22, 2009 11:46 AM
To: Benzion, Gary
Cc: Newsome, Lamonte
Subject: RE: 11356613

Gary:

Would you please sign the form below and forward back to be to be faxed to the number below.
Thanks
Cynthia

From: Newsome, Lamonte
Sent: Friday, June 12, 2009 10:13 AM
To: Wilder, Cynthia
Cc: Benzion, Gary
Subject: 11356613

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 11356613 Patent No.: 7510837 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of

Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: T he amendment for clarity of the claims is approved. The amendment is directed to matters of form not affecting the scope of the invention.

SPE
Art Unit

Subject: RE: 11356613

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 11356613 Patent No.: 7510837 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part** **not** apply.	Specify below which changes **do**
☐ **Denied**	State the reasons for denial

below.

Comments: T he amendment for clarity of the claims is approved. The amendment is directed to matters of form not affecting the scope of the invention.

/Peter

Paras/ 1632

6/23/09

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Robert M. Case	: DECISION ON REQUEST FOR
Patent Number	: 7623264	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **879** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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www.uspto.gov

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 05/18/2010

Applicant : Robert M. Case
Patent Number : 7623264
Issue Date : 11/24/2009
Application No: 11/356,616
Filed : 02/17/2006

: 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 **913** 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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OFFICE OF PETITIONS

Bret Kumler
8315 Manifesto Cir
Huntington Beach CA 92646

In re Application of :
Kumler :
Application No.11/356,619 : DECISION ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. UKum001 :

This is a decision on the petition under 37 CFR §1.137(b), filed July 5, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on March 22, 2006. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). An untimely reply was submitted on May 24, 2006. A Notice of Incomplete Reply was mailed on August 16, 2006. Accordingly, this application became abandoned on May 23, 2006. A Notice of Abandonment was mailed on June 18, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/24/2010

Applicant	: Byoung-Chul Lee	: DECISION ON REQUEST FOR
Patent Number	: 7643437	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/356,623	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

FEB 16 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of :
SPRUYT, PAUL MARIE PIERRE, et al. :
Application No. 11/356,625 : DECISION ON PETITION
Filed: February 17, 2006 : TO MAKE SPECIAL
For: **MODULATION OF A PILOT CARRIER, AND MEANS TO PERFORM THIS MODULATION** :

This is a decision on the request for suspension filed February 17, 2006 and corrected on April 21, 2006.

The reason for the request is to provide sufficient time for preparation of a set of claims for prosecution.

The term requested for suspension of action is six months.

The petition is **DISMISSED AS MOOT**.

More than six months has elapsed since the filing of the request.

The application will be forwarded to the examiner for examination in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

Mail Date: 04/21/2010

Applicant	: Nobuyuki Takiyama	: DECISION ON REQUEST FOR
Patent Number	: 7641837	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: 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.

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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MCKENNA MCGOVERN BURKHART
134 NORTH LASALLE STREET, SUITE 2040
CHICAGO, IL 60602

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MAR 06 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Gary G. Harris :
Application No. 11/356,652 :
Filed: February 16, 2006 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 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 February 6, 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 7, 2008.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Anne McGovern Burkhart
701 Maple Ave.
Downers Grove, IL 60515

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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PATENT GROUP
C/O DLA PIPER US LLP
203 N. LASALLE ST., SUITE 1900
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of

Gary C. Grenier

Application No. 11/356,658

Filed: February 16, 2006

Attorney Docket No. HWC-06-5684

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007.

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 April 6, 2007, which set a period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 7, 2007. A Notice of Abandonment was mailed on November 28, 2007.

The amendment filed December 17, 2007, is noted.

The application is being forwarded to Technology Center 1700, GAU 1796 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
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OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN TX 78701

In re Application of :
James Templeton :
Application No. 11/356,674 : DECISION GRANTING
Filed: February 17, 2006 : PETITION
Attorney Docket No. 5900-00102 :

This is a decision on the petition filed June 12, 2006, requesting that the above-identified application be accorded a filing date of February 17, 2006, instead of the presently accorded filing date of February 16, 2006.

Petitioners request the later filing date on the basis that the application was purportedly deposited in Express Mail service on February 17, 2006, pursuant to the requirements of 37 CFR 1.10. In support, petitioner supplied a copy of Express Mail label EV325441758US which bears a "date in" of February 16, 2006. The petition is accompanied by a copy of the USPS Tracking system.

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 (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing

[1] See 37 CFR 1.6(a).

date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1®) of this chapter.

A review of the U.S. Postal Service's tracking system shows Express Mail package bearing label EV325441758US was accepted and enroute on February 17, 2006.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to February 17, 2006** and for issuance of a corrected filing receipt.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BRADLEY N. RUBEN, PC
463 FIRST ST, SUITE 5A
HOBOKEN, NJ 07030

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Sadamu Toida, et al. :
Application No.: 11/356,676 : ON PETITION
Filed: February 17, 2006 :
Attorney Docket No.: 114AI-159 :

This is a decision on the petition, filed December 20, 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 November 6, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2831 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/19/2010

Applicant	: Kie Jin Lee	: DECISION ON REQUEST FOR
Patent Number	: 7650121	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/356,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **809** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NOV 2 1 2006

Law Office of Robert L. Powley, P.C.
4th Floor
417 Canal Street
New York NY 10013

In re Application of:
RAVIKUMAR, SUNDARAM
Serial No.: 11/356,692
Filed: Feb. 17, 2006
Docket: 268.1(US)
Title: RECONFIGURABLE HEEL ELEVATOR

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on Aug. 24, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee; b) if all claims are not directed to a single invention if determined by the Office, applicant will make an election without traverse; c) a statement that a search has been made, Class 602, Subclasses 13, 14, 23, 27, 28, 65; Class 128, Subclass 149, 153; d) an IDS statement; and e) a detailed discussion of three references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) (b)(c) and (d) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (e).

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." The applicant provides a discussion of three out of thirty-five cited references but does not point out the particular language that distinguishes the independent claim 11, filed on Aug. 24, 2006, from these references. The applicant's general allegations that the invention is patentable over the references run contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. Applicant's repeated general allegation that the references do not teach or suggest "an elevation member that is removably attachable to a support" is insufficient because no such limitation is found in claim 11. This general allegation runs contrary to 37 CFR § 1.111 (b). Rather, each independent claim must be compared with each reference, and the differences between the two must be clearly stated. Because the petition does not point out the specific language in each independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide a detailed discussion of each of the cited 35 references that clearly points out the specific language in the independent claim that distinguishes over the references.

For the above-mentioned reasons, the petition is dismissed. The application will, therefore, be taken up by the examiner for action in its regular turn. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3772 for further process. Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

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Commissioner for Patents
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Law Office of Robert L. Powley, P.C.
4th Floor
417 Canal Street
New York NY 10013

mailed 4/2/07

In re Application of:
RAVIKUMAR, SUNDARAM
Serial No.: 11/356,692
Filed: Feb. 17, 2006
Docket: 268.1(US)
Title: RECONFIGURABLE HEEL ELEVATOR

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on reconsideration of the decision on petition filed on Jan. 22, 2007 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d). It is noted that petitioner paid another petition fee, $130.00 with the current renewed petition. This duplicate petition fee, $130.00 will be refunded upon request.

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee paid on Aug. 24, 2006; b) if all claims are not directed to a single invention if determined by the Office, applicant will make an election without traverse; c) a statement that a search has been made, Class 602, Subclasses 13, 14, 23, 27, 28, 65; Class 128, Subclass 149, 153; d) an IDS statement; and e) a detailed discussion of three references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) (b)(c) and (d) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (e). Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." The applicant provides a discussion of three out of thirty-five cited references but does not point out the particular language that distinguishes the independent claim 11, filed on Aug. 24, 2006, from the remaining references. The applicant's general allegations that the invention is patentable over the references run contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. This general allegation runs contrary to 37 CFR § 1.111 (b). Rather, the independent claim 11 must be compared with each reference, and the differences between the two must be clearly stated.

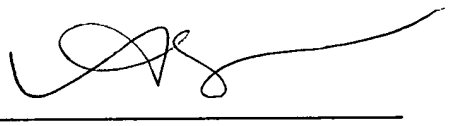
In the renewed petition, the explanation and the distinction of U.S. Pats. to Spahn, Browning and Graziano and comparison of claims 11 were provided which satisfied the provision of MPEP§708.02(VIII)(e). However, the renewed petition remains silent regarding other cited prior art references as listed in Forms 1449 filed Aug. 24, 2006. Petitioner has only explained three references and did not discuss in any manner the remaining thirty-two listed on the Forms 1449. The allegation that the remaining thirty-two references are not deemed most closely related to the claimed subject matter is insufficient to comply with MPEP § 708.02(VIII)(e). Therefore, there are thirty-two references need to be explained. Currently petitioner has not provided any comparison to independent claims 11 or discussion of patentable distinctness of the independent claim with respect to each of the remaining thirty-two references cited. Presumably all of the thirty-five references were considered relevant to the independent claim 11 if they were uncovered during the pre-examination search. In order for the petition to be granted, petitioner must point out the specific differences between each reference and the language of the independent claim 11. Because the petition does not point out the specific language in each of the independent claims that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

Petitioner also requests that the IDS filed on Aug. 24, 2006 under 37 CFR 1.56 and 1.97 be withdrawn from record. This request cannot be granted without a petition under MPEP 724.05. In this case, the petition to make special cannot be granted without meeting all requirements set forth in MPEP § 708.02(VIII). In particular, the examiner simply cannot ignore the existence of an unexplained IDS statement while the applicant requests the Office to grant special status.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide a detailed discussion of each of the cited 35 references that clearly points out the specific language in the independent claim that distinguishes over the references.

For the above-mentioned reasons, the petition is dismissed. The application will, therefore, be taken up by the examiner for action in its regular turn. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3772 for further process. Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.



Henry C. Yuen
Special Programs Examiner
Technology Center 3700
Tel: 571-272-4856

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417 CANAL STREET, 4TH FLOOR
NEW YORK, NY 10013

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of :
Sundaram RAVIKUMAR :
Application No. 11/356,692 :
Filed: February 17, 2006 :
Attorney Docket No. **268.1(US)** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Robert L. Powley, the sole attorney of record. Robert L. Powley has been withdrawn as attorney or agent of record. *Applicant is reminded that there is no attorney of record at this time*.

All future communications from the Office will be directed to the sole named signing inventor Sundaram Ravikumar at the address below until otherwise properly notified by the applicant.

There is an outstanding final Office action mailed October 7, 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: **SUNDARAM RAVIKUMAR**
88 ASHFORD AVENUE
DOBBS FERRY, NY 10522-1812

Attachment: Power/Revocation/New Power Of Attorney with Address Change (PTO/SB/81)

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Alexandria, VA 22313-1450
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SUNDARAM RAVIKUMAR
88 ASHFORD AVENUE
DOBBS FERRY NY 10522-1812

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OFFICE OF PETITIONS

In re Application of :
Sundaram Ravikumar :
Application No. 11/356,692 : ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. 268.1(US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 30, 2008. The Notice of Abandonment was mailed May 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 3772 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO, IL 60606

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Chambron and Labaune :
Application No. 11/356,709 :
Filed: February 17, 2006 :
Attorney Docket No. 3120-008 :
For: Alarm System :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed October 26, 2006.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

The petition would be grantable but for an omission on the declaration.

When a petition under 37 CFR 1.47(b) is filed, the declaration must be signed by someone with authority to sign on behalf of the assignee. Although the declaration contains a signature and identifies the signer as the C.F.O. of the assignee, the declaration does not list the name, typed or printed, of the individual signing the declaration. A supplemental declaration listing the name of the individual signing on behalf of the assignee should be filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/356,709	02/17/2006	Michel Chambron	3120-008

CONFIRMATION NO.
3257

PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO IL 60606

Date Mailed: July 17, 2007

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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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
11/356,709	02/17/2006	Michel Chambron	3120-008

PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO IL 60606

DATE MAILED: July 19, 2007

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed July 3, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN TX 78701

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of
Moriat et al.
Application No. 11/356,711
Filed: February 17, 2006
Attorney Docket Number: 5150-94600
Title of Invention: Solver for Simulating a System in Real Time on a Programmable Hardware Element

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on June 19, 2006, requesting that the above-identified application be accorded a filing date of February 17, 2006, rather than the presently accorded filing date of February 16, 2006. This petition is properly treated under 37 CFR 1.10(d).

Petitioners request the later filing date on the basis that the application was purportedly deposited in Express Mail service on February 17, 2006, pursuant to the requirements of 37 CFR 1.10. In support, petitioner supplied a copy of Express Mail receipt No. EV325441744US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The Express Mail label has a date-in of February 16 2006.

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 (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office

[1] See 37 CFR 1.6(a).

and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing
date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

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 February 17, 2006.

In view of the above, the petition is **Granted**.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **February 17, 2006** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272 -3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Zilka-Kotab, PC
P.O. Box 721120
San Jose CA 95172-1120

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NOV 0 7 2006

OFFICE OF PETITIONS

In re Application of :
BIRD :
Application No. 11/356,714 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. SSS1P008 : FROM RECORD
:

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 29, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin J. Zilka, Dominic M. Kotab and Ronald B. Feece on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor John M. Bird at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: John M. Bird
2105 Ponderosa Drive
Sparks, Nevada 89431

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John P. O'Banion
O'Banion & Ritchey, LLP
400 Capitol Mall Suite 1550
Sacramento, CA 95814

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Robert W. Bower :
Application No. 11/356,717 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. BOW.003US0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 6, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to John P. O'Banion and all attorneys/agents of record has been revoked by the applicant of the patent application on December 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Steven Vosen
1563 Solano Avenue #206
Berkeley, CA 94707

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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Jilin He	: DECISION ON REQUEST FOR
Patent Number	: 7666247	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 05/17/2010

Applicant : Jilin He
Patent Number : 7666247
Issue Date : 02/23/2010
Application No: 11/356,723
Filed : 02/17/2006

: 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 **768** 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

BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVE
SUITE 2300
DALLAS TX 75201

COPY MAILED
JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Lin, et al. :
Application No. 11/356,727 : DECISION REFUSING STATUS
Filed: February 17, 2006 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 87172669-672001:

This is in response to the petition under 37 CFR 1.47(a), filed May 22, 2006.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 17, 2006, without an executed oath or declaration or the filing fees. Accordingly, on March 21, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing, along with the filing fees. This Notice set a two month period for reply. On May 22, 2006, applicants filed the instant petition, made timely by the fact that May 21, 2006 fell on a Sunday. See 37 CFR 1.7(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (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. Rule 47 applicant has not met requirement (2) above.

With respect to requirement (2), there is no indication that applicants have submitted a proper 37 CFR 1.63 declaration. While the declaration contains all the proper identifying information as well as the signatures of all inventors except Lin, none of the signatures are dated. See 28 U.S.C. § 1746.

The $200 petition fee as set forth in 37 CFR 1.17(g) has been charged to Deposit Account No. 13-0480, as authorized.

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 may 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
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P.O. Box 1450
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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVE
SUITE 2300
DALLAS TX 75201

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AUG 11 2006
OFFICE OF PETITIONS

In re Application of :
Lin, et al. :
Application No. 11/356,727 : DECISION ACCORDING STATUS
Filed: February 17, 2006 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 87172669-672001:

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 14, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on February 17, 2006, without an executed oath or declaration or the filing fees. Accordingly, on March 21, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing, along with the filing fees. This Notice set a two month period for reply. On May 22, 2006, applicants filed a petition under 37 CFR 1.47(a), made timely by the fact that May 21, 2006 fell on a Sunday. See 37 CFR 1.7(a). However, the petition was dismissed in a decision mailed on June 20, 2006 because petitioner did not submit a proper 37 CFR 1.63 declaration. The declaration lacked the dates for the signing inventors.

On renewed petition filed July 14, 2006, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63. The previous requirements of 37 CFR 1.47(a) were satisfied in the petition filed May 22, 2006. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to non-signing inventor Lin at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to Group Art Unit 2625 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WAN-CHUN LIN
NO 2
LANE 277
WANDA RD
TAIPEI ROC

COPY MAILED
AUG 11 2006
OFFICE OF PETITIONS

In re Application of :
Wan-Chun Lin, Tzy-Chang Tan, Kun-Han :
Hsieh, Kai-Chi Chang :
Application No. 10/356,727 :
Filed: February 17, 2006 : LETTER
Title: Illuminating Device

Dear Mr. Lin:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Noel C. Gillespie
Baker & McKenzie LLP
2001 Ross Ave Ste 2300
Dallas, TX 75201
phone: 858-523-6231

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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Tim Vanderhoek	: DECISION ON REQUEST FOR
Patent Number	: 7619443	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, VA 22313-1450
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DESIGN IP, P.C.
5100 W. TILGHMAN STREET
SUITE 205
ALLENTOWN PA 18104

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
ABDULHAY, Gazi et al. :
Application No. 11/356,764 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. **HMS-P0003** : FROM RECORD
:

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 04, 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 Damon Neagle on behalf of all attorneys of record who are associated with customer No. 35775. All attorneys/agents associated with the Customer Number 35775 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 Gazi Abdulhay at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GAZI ABDULHAY, MD**
1550 POND ROAD
SUITE 102
ALLENTOWN PA 18104

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Hirohisa Yamaguchi	: DECISION ON REQUEST FOR
Patent Number	: 7573960	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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KOPPEL, PATRICK, HEYBL & DAWSON
2815 Townsgate Road
SUITE 215
Westlake Village CA 91361-5827

COPY MAILED
MAR 17 2010

In re Application of	:	
Primit PARIKH et al.	:	
Application No. 11/356,791	:	DECISION ON PETITION
Filed: February 17, 2006	:	
Attorney Docket No. P0212US2-7	:	

This is a decision on the petition, filed December 21, 2009, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed on April 24, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 25, 2009.

Petitioner states that a timely reply in the form of was e-filed on Monday, October 26, 2009, with the appropriate request for a three (3) month extension of time.

A review of the record reveals that an Amendment filed on Monday, October 26, 2009, with the appropriate request for a three (3) month extension of time, in response to the non-final Office action mailed on April 24, 2009, is located in the Office's Image File Wrapper System.

As such, the papers filed on Monday, October 26, 2009, constituted a timely response to the non-final Office action mailed on April 24, 2009.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

This application is referred to Technology Center Art Unit 2811 for further processing.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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AUG 14 2006

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:
Fisk, et al.	: DECISION REFUSING STATUS
Application No. 11/356,796	: UNDER 37 CFR 1.47(a)
Filed: February 17, 2006	:
Dkt. No.: 2605/75935/RDK	:
For: SYSTEM AND METHOD FOR	:
CONSTRAINING BINGO CARD FACES	:
TO LIMIT LIABILITY OF NUMBER OF	:
RANDOM DRAWN WINNERS	:

This decision is in response to the petition under 37 CFR 1.47(a), filed May 24, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed February 17, 2006 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 21, 2006 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above.

Petitioners allege joint inventor Daniel W. Bower refuses to execute the application papers. However, neither the petition nor the accompanying declaration of Mr. Katz discuss, with any first hand knowledge, the presentation of the application papers to the non-signing inventor. Accordingly, it cannot be determined that the non-signing inventor refused to sign the declaration after having been presented with the application papers.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

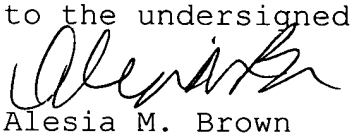
Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

Currently, a petition under 37 CFR 1.47 is $200.00. As petitioners have subjected just $130.00, the remaining fee due ($70.00) has been charged to petitioners' deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 19 2007

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of :
Fisk, et al. : DECISION UNDER 37 CFR 1.47(a)
Application No. 11/356,796 :
Filed: February 17, 2006 :
Dkt. No.: 2605/75935/RDK :
For: SYSTEM AND METHOD FOR :
CONSTRAINING BINGO CARD FACES :
TO LIMIT LIABILITY OF NUMBER OF :
RANDOM DRAWN WINNERS :

This decision is in response to the renewed 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).

The above-identified application was filed February 17, 2006 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 21, 2006 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioners allege that the previously non-signing inventor is presently available to execute the declaration for the above-identified application. Petitioners further indicate that an executed declaration accompanies the instant renewed petition. A review of the renewed petition, however, does not reveal submission of an executed declaration. The renewed petition is accompanied by a copy of the decision on petition along with a copy of the application, but no declaration.

Any renewed petition must should accompany a fully executed oath or declaration, or further arguments on the merits of petitioners' request for consideration under 37 CFR 1.47.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Fisk, et al.	:	DECISION NOTING JOINDER
Application No. 11/356,796	:	OF INVENTOR AND PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.47(a) MOOT
Docket No.: 2605/75935/RDK	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed March 30, 2007 and supplemented May 21, 2007.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ISRAEL ZEITZ
1656 S.E. HAVERFORD ST
PORT ST. LUCIE FL 34983

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Zeitz, Israel :
Application No. 11/356,809 : ON PETITION
Filed: February 21, 2006 :
Title: COMBINATION SECURITY BAR AND ALARM SYSTEM :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 21, 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, Israel Zeitz. 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 2600 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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Klein, O'Neill & Singh, LLP
43 Corporate Park, Suite 204
Irvine, CA 92606

Mail Date: 04/21/2010

Applicant	: Leonid I. Rudin	: DECISION ON REQUEST FOR
Patent Number	: 7587082	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **875** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Heon-Ki Chae	: DECISION ON REQUEST FOR
Patent Number	: 7609661	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,821	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

Mail Date: 04/21/2010

Applicant	: Gyu-Woong Lee	: DECISION ON REQUEST FOR
Patent Number	: 7653039	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: 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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APR 24 2009

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

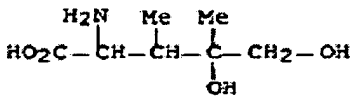
In re Application of:
Mioskowski et al.
Serial No.: 11/356,848
Filed: February 17, 2006
Attorney Docket No.:
50319/011002

: PETITION DECISION

This is in response to the Petition under 37 CFR § 1.181, filed March 13, 2009, requesting that the finality of the Office action of January 14, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on April 29, 2008, setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-3, 5-8, 15, 16 and 19-28 were pending in the application. Claims 2, 3, 5, 6, 15, 16 and 19-28 were withdrawn from consideration as being directed toward a non-elected invention. Claims 1, 7, 8, 15 and 19-21 were examined on their merits with regard to the non-elected species of:

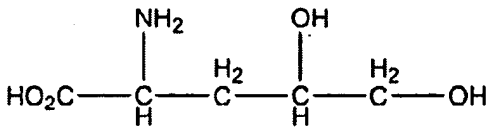


The elected species of compound 100a (as seen in Figure 11) was previously indicated as being allowable by the examiner (see pp. 2-3, non-final Office action of July 19, 2007). In this non-final Office action, *Inter alia*, the examiner rejected claims 1, 7, 8 and 19-21 under 35 U.S.C. § 112, first paragraph, for lacking enablement and written description. These rejections were maintained from the previous non-final Office action mailed on July 19, 2007. The examiner additionally objected to claims 1, 7, 8, 15 and 19-21 for containing non-elected subject matter.

In reply to the non-final Office action of April 29, 2008, applicants filed a response on September 29, 2008. The response submitted by applicants included remarks, arguments

traversing the rejections made in the non-final Office action, as well as amendments to claims 1, 5 (a withdrawn claim) and claim 15 to delete the species of compound which was specifically searched and rejected by the examiner in the non-final Office action of April 29, 2008.

On January 14, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-3, 5-8, 15, 16 and 19-28 were pending in the application. Claims 2, 3, 5, 6, 16 and 22-28 were withdrawn from examination as being directed toward a non-elected invention. Claims 1, 7, 8, 15 and 19-21 were examined on their merits. The examiner, in light of the most recent amendments submitted by applicants to strike the species of compound searched by the examiner, removed the previous rejections instituted under 35 U.S.C. § 112, first paragraph, for lacking enablement and written description. The examiner objected to claims 1-3, 5-8, 15, 16 and 19-28 for containing non-elected subject matter. Additionally, the examiner instituted a new rejection over claims 1, 8, 19, 20 and 21 under 35 U.S.C. § 102(b) as being anticipated by Fischer et al. (1908). The compound which was searched by the examiner and determined to be anticipated by Fischer et al., was the following compound:



In response thereto, applicants filed this Petition under 37 CFR § 1.181on March 13, 2009, requesting that the finality of the Office action of January 14, 2009 be withdrawn.

DISCUSSION

The Petition and the file history have been carefully considered.

In the Petition filed by applicants on March 13, 2009, applicants request removal of the finality of the Office action mailed by the examiner on January 14, 2009. Applicants contend that the species of compound searched by the examiner was not a species of compound present in any of the examined claims and thus assert that the final Office action was premature and improper. While not exemplified by applicants, if in fact the species of compound examined and rejected by the examiner in the final Office action was not a species of compound found in applicants' claims, the new ground of rejection presented by the examiner in the final Office action; namely, the rejection of claims 1, 8, 19, 20 and 21 under 35 U.S.C. 102(b) as being anticipated by Fischer et al., would be considered a new rejection which was not necessitated by applicants' amendments to the claims. Subsequently, applicants request that the finality of the previous Office action be withdrawn in favor of applicants.

The following excerpt from the MPEP § 803.02 provides guidance with regard to examination of Markush-type claims:

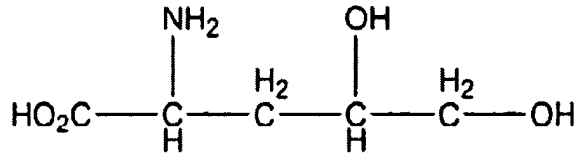
> As an example, in the case of an application with a Markush-type claim drawn to the compound X-R, wherein R is a radical selected from the group consisting of A, B, C, D, and E, the examiner may require a provisional election of a single species, XA, XB, XC, XD, or XE. The Markush-type claim would then be examined fully with respect to the elected species and any species considered to be clearly unpatentable over the elected species. If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration. A second action on the rejected claims can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a)

With regard to final rejection practice, the MPEP § 706.07 states:

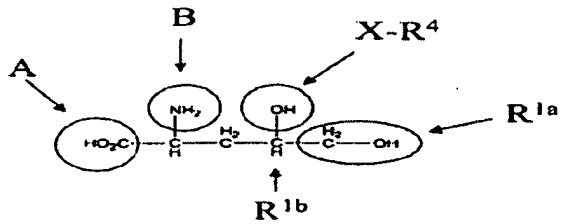
> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

> ...[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Applicants' arguments are well taken. It is evident from the claims, as argued on pages 2-3 of applicants' arguments, that the species of compound examined and rejected by the examiner in the final Office action was not a species of compound present in the claims; said species being:



Applicants have provided a proper illustration of the examined compound and how the constituents of this compound relate to the respective groups of the claimed compounds (see p. 3, Petition):



As correctly pointed out by applicants, this examined compound possesses a hydroxyl-substituted C_1 alkyl carboxylic acid group at the R^{1a} location of applicants' claimed compound. The species of R^{1a}, as defined by applicants' claims, cannot be a substituted C_1 alkyl because claim 1 states: "...each of R^{1a} and R^{1b} is, independently unsubstituted C_{1-8} alkyl, substituted or unsubsituted C_{5-6} cyloalkyl, or a substituted or unsubstituted C_6 aryl, or substituted or unsubstituted C_{7-16} alkaryl, where the alkylene group is one of one to four carbon atoms..." (emphasis added, see p. 3, claims of September 29, 2008). Similarly, representing the R^{1b} group, the compound searched by the examiner also contains a hydroxyl-substituted C_1 alkyl which is not encompassed by the claimed invention since, again, R^{1b}, by applicants' definition, cannot be a substituted C_1 alkyl.

Hence, it appears that the examiner inadvertently chose a species of compound for examination which was not claimed. Considering that the species of compound examined was not encompassed by the claimed invention at the time the final Office action was mailed, the examiner's rejection of claims 1, 8, 19, 20 and 21 under 35 U.S.C. 102(b) as being anticipated by Fischer et al. was a new rejection which was not necessitated by applicants' amendments to the claims, thus rendering the final Office action improper.

Applicants' arguments are persuasive that the final Office action issued January 14, 2009 was improper and therefore the finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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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Beyer Law Group LLP/CHELSIO
P.O. Box 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Asgeir Thor Eiriksson	: DECISION ON REQUEST FOR
Patent Number	: 7616563	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,850	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Beyer Law Group LLP/CHELSIO
P.O. Box 1687
Cupertino, CA 95015-1687

Mail Date: 05/17/2010

Applicant : Asgeir Thor Eiriksson
Patent Number : 7616563
Issue Date : 11/10/2009
Application No: 11/356,850
Filed : 02/17/2006

: 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 **819** 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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Jonathan O. Owens
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale, CA 94086

Mail Date: 04/21/2010

Applicant	: Gunnar Hovden	: DECISION ON REQUEST FOR
Patent Number	: 7602976	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **910** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of

PARKER, William Patrick
Application No. 11/356,899
Filed: February 17, 2006
Attorney Docket No. **25791.386**

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 23, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L. P.
1100 LOUISIANA STREET, SUITE 4000
HOUSTON, TX 77002

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Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

In re Application of Parker	:	Decision Dismissing Request Under
Application No. 11/356,899	:	37 CFR 1.48 and Dismissing Request
Filing Date: February 17, 2006	:	Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 2725-38600	:	

This is a decision on the request under 37 CFR 1.48(a) filed March 18, 2008, requesting the addition of several inventors. This is also a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The request under 37 CFR 1.48(a) is **dismissed**.

The petition under 37 CFR 1.78 is **dismissed**.

The request under 37 CFR 1.48(a):

A request under 37 CFR 1.48(a) must include the following items in order to be granted:

(1) Fee under Rule 17(i) ($130),
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that error in inventorship occurred without deceptive intention on his or her part,
(3) Correct executed oath/dec (or oath/dec as permitted by 37 CFR 1.42, 1.43 or 1.47) and
(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Petitioner has failed to satisfy item (3) above.

Each signed declaration lists only one inventor's name and each declaration states the inventor listed is the sole inventor. Also, a new declaration signed by inventor Parker has not been filed.

A request for reconsideration and a properly signed declaration should be filed.

The petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6):

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 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 reference is improper because a benefit claim is improper when an application claiming priority based on a prior application does not include a common inventor.

Once the request under 37 CFR 1.48(a) is granted, all the applications will have at least one inventor in common.

Petitioner should file a request for reconsideration under 37 CFR 1.78(a) along with a grantable request for reconsideration under 37 CFR 1.48(a).

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. No further petition fee is required for the request.

Unless filed by EFS Web, 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 fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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OFFICE OF PETITIONS

In re Application of :
Dileep Sivasankaran et al. :
Application No. 11/356,902 : DECISION ON PETITION
Filed: February 17, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 10030.000510 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 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 from the applicant Frank S. Madren 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 2616 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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4/11/07

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

In re Application of:
ROSATI, CONI F.
Serial No.: 11/356,929
Filed: Feb. 16, 2006
Docket: 27542-501-CIP
Title: METHOD AND APPARATUS FOR SUPPLYING GAS TO AN AREA

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on Jun. 30, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d). The petition fee of $130.00 has been charged to the Deposit Account provided in the petition.

The petition to make the application special 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 that would require broadening the field of search will be treated as an improper response. See MPEP 708.02 (VIII) for a full explanation of the handling of applications after petition grant.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to

apply the improper standard in all cases. *See* In re The Boulevard Entertainment, Inc., 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

Petition GRANTED

4/11/07

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 04/20/2010

Applicant	: Chia-hao Yang	: DECISION ON REQUEST FOR
Patent Number	: 7603095	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **910** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FENNEMORE CRAIG, P.C.
1700 LINCOLN STREET
SUITE 2900
DENVER CO 80203

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
JOHNSON et al. :
Application No. 11/356,938 : ON APPLICATION FOR
Filed: February 17, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. PHELPS US-53A :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT, INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE, PURSUANT TO 37 C.F.R. § 1.705" filed March 5, 2009. Applicant requests that the determination of patent term adjustment be corrected from 400 days to 533 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three 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 three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within three 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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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OFFICE OF PETITIONS

FENNEMORE CRAIG, P.C.
1700 Lincoln Street
SUITE 2900
DENVER CO 80203

In re Patent No. 7,524,353	:	DECISION ON REQUEST FOR
Johnson, Jr. et al.	:	RECONSIDERATION OF
Issue Date: April 28, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/356,938	:	AND
Filed: February 17, 2006	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. PHELPS US-53A	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 13, 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 four hundred seventy (470) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred seventy (470) days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred seventy (470) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,524,353 B2

DATED : Apr. 28, 2009 **DRAFT**

INVENTOR(S) : Johnson, Jr. 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 400 days

Delete the phrase "by 400 days" and insert – by 470 days--

PTA Calculations for Application: 11/356938			
Application Filing Date:	02/17/2006	PTO Delay (PTO):	400
Issue Date of Patent:	04/28/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	470
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	06/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
52.5	04/08/2009	PTA 36 MONTHS			
52	04/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
51	03/30/2009	EXPORT TO FINAL DATA CAPTURE			
50	03/27/2009	DISPATCH TO FDC			
49	03/24/2009	MAIL-PETITION DECISION - DISMISSED			
48	03/24/2009	PETITION DECISION - DISMISSED			
47	03/05/2009	PETITION ENTERED			
46	03/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	03/06/2009	ISSUE FEE PAYMENT VERIFIED			
44	03/06/2009	ISSUE FEE PAYMENT RECEIVED			
43	02/24/2009	FINISHED INITIAL DATA CAPTURE			
42	12/26/2008	EXPORT TO INITIAL DATA CAPTURE			
41	12/22/2008	MAIL NOTICE OF ALLOWANCE			
40	12/19/2008	ISSUE REVISION COMPLETED			
39	12/17/2008	DOCUMENT VERIFICATION			
37	12/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	12/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
35	12/19/2008	NOTICE OF ALLOWABILITY			
32	12/08/2008	DATE FORWARDED TO EXAMINER			
31	12/05/2008	AMENDMENT AFTER FINAL REJECTION			
30	10/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
29	10/27/2008	FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

28	08/18/2008	CONSIDERED			
27	08/18/2008	NEW OR ADDITIONAL DRAWING FILED			
26	09/22/2008	DATE FORWARDED TO EXAMINER			
25	08/18/2008	RESPONSE AFTER NON-FINAL ACTION			
24	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/21/2008	MAIL NON-FINAL REJECTION	400		-1
20	05/20/2008	NON-FINAL REJECTION			
19	02/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	08/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
16	10/16/2007	FLAGGED FOR 5/25			
15	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	01/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	01/31/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/17/2006	REFERENCE CAPTURE ON IDS			
11.7	02/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10.7	08/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/28/2006	REFERENCE CAPTURE ON IDS			
8	06/06/2006	APPLICATION DISPATCHED FROM OIPE			
7	06/06/2006	APPLICATION IS NOW COMPLETE			
6	05/22/2006	ADDITIONAL APPLICATION FILING FEES			
5	05/22/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	03/21/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/08/2006	CLEARED BY OIPE CSR			
2	03/01/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	02/17/2006	INITIAL EXAM TEAM NN

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

In re Application of:
REZACH, ALAN
Serial No.: 11/356,939
Filed: Feb. 17, 2006
Docket: MSDI-642/PC985.00
Title: DORSAL ADJUSTING SPINAL CONNECTOR ASSEMBLY

10/31/08

DECISION ON PETITION

This is a decision on the petition filed on Oct. 28, 2008 seeking withdrawal of the finality of the Office action mailed Oct. 23, 2008. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record does not show at least independent claim 15 was amended in the Rule 1.111 amendment filed on Sep. 8, 2008. Therefore, the rejection of at least claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Mata (US. Pub. No. 2002/0042613 A1) in view of David (US. Pub. No. 2006/0058787 A1) and further in view of Dombrowski et al (US. Pat. NO. 5,709,685) was not necessitated by the amendment filed on Sep. 8, 2008. As such, the finality of the Office actions issued on Oct. 23, 2008 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on Oct. 23, 2008 will be designated as non-final Office action. The period to respond to the Office action of Oct. 23, 2008 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action dated Oct. 23, 2008 will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Oct. 23, 2008 is hereby withdrawn. The requested relief is granted.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Alan Rezach	: DECISION ON REQUEST FOR
Patent Number	: 7585299	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **611** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/3/09**

TO SPE OF : ART UNIT **3764 (3700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/356,943** Patent No.: **7,513,852**

Attn: Glenn Richman

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)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Glenn Richman/ 11/11/09

/LoAn H. Thanh/ — **SPE**

3764 — **Art Unit**

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THE LAW OFFICES OF STEVEN MCHUGH, LLC
46 WASHINGTON STREET
MIDDLETOWN, CT 06457

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NOV 10 2008

OFFICE OF PETITIONS

In re Application of :
Kenneth Seier, et al. :
Application No. 11/356,951 : DECISION ON PETITION
Filed: February 18, 2006 : TO WITHDRAW
Attorney Docket No. SYM-0004 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "services terminated by client", do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MS. COLEEN CRAWFORD
SYMBIOSIS TECHNOLOGIES, LLC
PO BOX 356
RAYNHAM, MA 02767

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RABIN & BERDO, P.C.
Suite 500
1101 14 Street, N.W.
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Ming-Daw Chen	: DECISION ON REQUEST FOR
Patent Number	: 7608996	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/356,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **611** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Ramanamurthy Dantu	: DECISION ON REQUEST FOR
Patent Number	: 7639647	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,005	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
11/357,110	02/21/2006	Sharon Barkai	30513	4078

67801 7590 10/19/2009

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER	
NGUYEN, LOAN T	

ART UNIT	PAPER NUMBER
2156	

MAIL DATE	DELIVERY MODE
10/19/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Martin D. Moynihan
d/b/a PRTSI, INC.
P.O. Box 16446
Arlington, VA 22216

In re Application of:
Sharon BARKAI, et al.
Application No. 11/357,110
Filed: February 21, 2006
For: METHOD AND APPARATUS FOR DATA MANAGEMENT

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on 08 January 2009, requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as, Figures 1-8, 10B, 11, 13-16, 19 and 20A-24 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and was filed with three (3) sets of color drawings of Figures 1-8, 10B, 11, 13-16, 19 and 20A-24. The specification did not contain the required notification described above. Since the instant application is in condition for allowance, the undersigned is hereby making an examiner's amendment to contain such a required notification.

The petition is **GRANTED**.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
(571) 272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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NOV 24 2008

In re Application of	:	
Yea-Huey SU et al.	:	
Application No. 11/357,155	:	DECISION ON PETITION
Filed: February 21, 2006	:	
Attorney Docket No. BHT-3230-216	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before June 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management for processing into a patent.

Michelle R. Eason
Paralegal Specialist
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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Maeda, et al.	:	
Application No. 11/357,175	:	DECISION GRANTING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 127085	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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.
11/357,178	02/21/2006	Hisashi Matsuyama	127086	3899

7590 09/12/2008

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
NGUYEN, DON	

ART UNIT	PAPER NUMBER
4133	

MAIL DATE	DELIVERY MODE
09/12/2008	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:
09/15/2008 NFARMER 0000164360

CHECK Refund Total: $900.00

Adjustment date: 09/15/2008 NFARMER
02/14/2006 HLE333 00000004 11351178
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP
05 FC:1202 -200.00 OP

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SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Yu et al.	:	DECISION GRANTING
Application No. 11/357,189	:	STATUS UNDER
Filed: February 21, 2006	:	37 CFR 1.47
For: PASSING VALUES	:	
THROUGH A MEMORY MANAGEMENT	:	
UNIT OF A NETWORK DEVICE	:	

This is in response to a Petition Under 37 CFR 1.47, filed May 22, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Jun Cao, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MR. JUN CAO
827 KINGFISHER TERRACE
SUNNYVALE, CA 94087

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Yu et al.	:	DECISION GRANTING
Application No. 11/357,189	:	STATUS UNDER
Filed: February 21, 2006	:	37 CFR 1.47
For: PASSING VALUES	:	
THROUGH A MEMORY MANAGEMENT	:	
UNIT OF A NETWORK DEVICE	:	

Dear Mr. Cao:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :

Mair Arganim :

Application No. 11/357,264 : DECISION ON PETITION

Filed: February 17, 2006 :

Attorney Docket No. 7031P016

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 8, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 22, 2006, after it was believed that no response was received to the Notice to File Corrected Application Papers mailed March 21, 2006. The Notice to File Corrected Application Papers allowed a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 28, 2006, indicating that a reply to the Notice to File Corrected Application Papers was not received.

The instant petition maintains that replacement drawings responsive to the Notice to File Corrected Application Papers action were mailed on April 5, 2006. A copy of the replacement drawings containing a certificate of mailing dated April 5, 2006 accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR
& ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of

Mair Avganim :

Application No. 11/357,264

: DECISION ON PETITION

Filed: February 17, 2006

:

Attorney Docket No. 7031P016

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2008, 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 September 20, 2007, which set a shortened statutory period for reply of three- month from its mailing date. A response was not received within the allowable period. The application became abandoned on December 21, 2007. A Notice of Abandonment was mailed on April 1, 2008.

The response filed November 7, 2008, is noted.

Deposit account 02-2666 will be charged $810.00 for the petition fee.

The application is being forwarded to Technology Center 3600, GAU 3673 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

Paper No.

EDWARD J. LYNCH, PATENT ATTORNEY
ONE EMBARCADERO CENTER
SUITE 562
SAN FRANCISCO CA 94111

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul Lubock et al.	:	
Application No. 11/357,274	:	DECISION ON PETITION
Filed: February 17, 2006	:	PURSUANT TO
Attorney Docket Number: SENOP-06100	:	37 C.F.R. § 1.182
Title: TEMPORARY CATHETER FOR BIOPSY SITE TISSUE FIXATION	:	

This is a decision on the petition filed October 18, 2007, pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of the priority claim that was made on filing.

The petition is **DISMISSED**.

The concurrently filed Change of Correspondence Address has been entered and made of record.

Relevant Statute and Section of the C.F.R.

35 U.S.C. § 120 sets forth, *in pertinent part*:

> An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first

> application or on an application similarly entitled to the benefit of the filing date of the first application and **if it contains** or is amended to contain **a specific reference to the earlier filed application** (emphasis added).

37 C.F.R. § 1.78(a)(2)(iii) sets forth, in toto:

> If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or **the specification must contain** or be amended to contain **such reference in the first sentence(s) following the title** (emphasis added).

Analysis

With this petition, Petitioner has submitted a portion of the petition fee[1] and a request to delete the priority claim to Application No. 11/105,856 that was made on filing. However, **it does not appear that Petitioner has included an amendment to the specification, deleting the reference to Application No. 11/105,856.**

Conclusion

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else

---

1 The remainder of this fee will be charged to Petitioner's Deposit Account in due course.
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

to the address will delay the delivery of the response to the undersigned.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

EDWARD J. LYNCH, PATENT ATTORNEY
ONE EMBARCADERO CENTER
SUITE 562
SAN FRANCISCO CA 94111

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JUN 09 2008

In re Application of	:	
Paul Lubock et al.	:	
Application No. 11/357,274	:	DECISION ON RENEWED PETITION
Filed: February 17, 2006	:	PURSUANT TO
Attorney Docket Number: SENOP-06100	:	37 C.F.R. § 1.182
Title: TEMPORARY CATHETER FOR BIOPSY SITE TISSUE FIXATION	:	

This is a decision on the renewed petition filed March 25, 2008, pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of the priority claim that was made on filing.

An original petition was filed on October 18, 2007, and was dismissed via the mailing of a decision on March 17, 2008. The decision indicated that Petitioner's request to delete the priority claim to Application No. 11/105,856 that was made on filing was not granted as Petitioner failed to include an amendment to the specification, deleting the reference to Application No. 11/105,856.

With this renewed petition, Petitioner has submitted a preliminary amendment to the specification, expressly indicating that none of the applications that were incorporated by reference on filing are "relied upon for priority."

Section 201.11(III)(G) of the M.P.E.P. sets forth, in pertinent part:

> Effective June 8, 1995, Public Law 103-465 amended 35 U.S.C. 154 to change the term of a patent to 20 years measured from the filing date of the earliest U.S. application for which benefit under 35 U.S.C. 120, 121, or 365(c) is claimed. The 20-year patent term applies to all utility and plant patents issued on applications filed on or after June 8, 1995. As a result of the 20-year patent term, it is expected, in certain circumstances, that applicants may cancel their claim to priority by amending the specification or submitting a new application data sheet (no supplemental declaration is necessary) to delete any references to prior applications (emphasis added).
>
> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under 37 CFR 1.116 (see MPEP § 714.12 and § 714.13). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under 37 CFR 1.312 (see MPEP § 714.16). A deletion of a benefit claim will not delay the publication of the application unless the amendment or ADS is recognized by the Office within nine weeks prior to the projected publication date that was originally calculated based on the benefit claim.
>
> A cancellation of a benefit claim to a prior application may be considered as a showing that the applicant is intentionally waiving the benefit claim to the prior application in the instant application. If the applicant later files a petition to accept an unintentionally delayed claim to add the benefit claim to the prior application in the same application from which the benefit claim was canceled, the Office may refuse to accept such benefit claim because the delay was not unintentional (emphasis added).

It follows that this renewed petition pursuant to 37 C.F.R. § 1.182 is **DISMISSED AS INAPPROPRIATE** as this matter is provided for in MPEP § 201.11(III)(G). No petition is required: in order to delete a claim of priority, Petitioner need only amend the specification to delete any reference to the prior application. The petition fee of $400 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment submitted concurrently with this petition can be considered in due course. **It is noted in passing that this amendment does not appear to be compliant with the portion of the MPEP reproduced above, as Petitioner has failed to delete the reference to the prior filed application.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 2, 2009

TO SPE OF : ART UNIT 2156 - SPE Pierre M. Vital

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/357,289 Patent No.: 7,606,797 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The suggested changes have been approved.

Brian Vital
PIERRE VITAL
SUPERVISORY PATENT EXAMINER

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. : 7,606,797

APPLICATION NO.: 11/357,289

ISSUE DATE : 10/20/2009

INVENTOR(S) : Kelron McCammon and Manish Chandra

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On page 7, Claim 1, col. 6, lines 56-58, replace "wherein an attribute comprises an entity for which any of a plurality of values to which is assigned one from a finite group of values"

with - - - "wherein an attribute comprises an entity to which is assigned one from a finite group of values"

MAILING ADDRESS OF SENDER (Please do not use customer number below):

The Brill Law Office
2900 Gordon Avenue, Suite 100-38
Santa Clara, CA 95051

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 07 2009

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
James Edward Pitkow :
Application No. 11/357,293 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. 026970-006100US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 4, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 20350 has been revoked by the assignee of the patent application on June 1, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

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
11/357,293	02/16/2006	James Edward Pitkow	026970-006100US

CONFIRMATION NO. 4005

26582
HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

POA ACCEPTANCE LETTER

OC000000037243286

Date Mailed: 08/06/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2009.

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.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/357,293	02/16/2006	James Edward Pitkow	026970-006100US

CONFIRMATION NO. 4005

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 08/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ANDREW G. DINOVO
DiNOVO PRICE ELLWANGER & HARDY LLP
7000 N. MOPAC EXPRESSWAY
SUITE 350
AUSTIN, TX 78731

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of :
Yu-Gao Zhang :
Application No. 11/357,301 : ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. 55025-00004USC1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 October 8, 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.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1796 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.

April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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NOV 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Nijjer, et al :
Application No.: 11/357,316 :
Filed: February 17, 2006 :
Attorney Docket No.: PILL-1-1005 :
For: RECORDING DEVICE

LETTER AND NOTICE OF ABANDONMENT

A petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on November 10, 2006.

A review of the file reveals that on March 22, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit the required payment of a $65.00 surcharge under 37 CFR 1.16(e) and a properly executed oath or declaration.

On October 23, 2006, a petition for a five month extension of time and required fee, the late declaration surcharge and a partially executed declaration were filed.

On October 25, 2006, Notice of Incomplete Reply was mailed to petitioners because the signature of Beverly Elizabeth Alexandra Ward was missing from the declaration. The Notice of Incomplete Reply explained that that period of reply as set forth in the March 22, 2006 Notice to File Missing Parts of Nonprovisional Application remained in effect.

Section 1.135(b) of the Code of Federal Regulations states, in relevant part: "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." It is not possible to purchase extensions of time beyond 5 months when replying to a Notice to File Missing Parts of Nonprovisonal Application. Therefore, the application became abandoned on

October 23, 2006 because petitioners failed to file a Rule 47 petition or a fully executed declaration prior to the expiration of the maximum obtained period for response.

Under the circumstances of this application, petitioners must file a petition to revive under 37 CFR 1.137 and pay the proper petition fee within **ONE (1) month** of this decision. No extensions of time are permissible. Unless petitioners can demonstrate that petitioners were unavoidably prevented from submitting a complete reply to the Notice, filing a petition under 37 CFR 1.137(b) is recommended. The petition under 37 CFR 1.47(a) will remain in the file until such time as petitioners have filed a grantable petition to revive under 37 CFR 1.137. At that time, the Rule 47(a) petition will be addressed on the merits.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of :
Nijjer, et al : ON PETITION
Application No.: 11/357,316 :
Filed: February 17, 2006 :
Attorney Docket No.: PILL-1-1005 :
For: RECORDING DEVICE

This decision addresses the petition to revive under 37 CFR 1.137(b), filed December 15, 2006 and the petition under 37 CFR 1.47(a), filed November 10, 2006 and resubmitted on December 15, 2006.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petitions Under 37 CFR 1.47(a) and 1.137(b)" and may include an oath or declaration executed by the inventor.

A review of the file reveals that on March 22, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit the required payment of a $65.00 surcharge under 37 CFR 1.16(e) and a properly executed oath or declaration.

On October 23, 2006, a petition for a five month extension of time and required fee, the late declaration surcharge and a partially executed declaration were filed.

On October 25, 2006, Notice of Incomplete Reply was mailed to petitioners because the signature of Beverley Elizabeth Alexandra Ward was missing from the declaration. The Notice of Incomplete Reply explained that that period of reply as set forth in the March 22, 2006 Notice to File Missing Parts of Nonprovisional Application remained in effect. Therefore, the application became abandoned on October 23, 2006 because petitioners failed to file a Rule 47 petition or a fully executed declaration prior to the expiration of the maximum obtained period for response.

A grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that Ms. Ward refused to join in the filing of the above-identified application.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts of Jay Nijjer does not establish that a complete copy of the application was presented to Ms. Ward. Mr. Nijjer refers to "application papers", but is not specific as to whether or not Ms. Ward received a copy of the **application as filed** when she was presented with documents for her signature.

Ms. Ward must have the complete application in her possession in order to make an informed decision as to whether she joins in its filing. When petitioners can show that Ms. Ward was mailed or received the complete application and that she either refused to sign the declaration or would not respond to the request that she sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

Until an acceptable declaration is filed - either one executed by Ms. Ward or the current one on file taken with a granted Rule 47(a) petition – the petition under 37 CFR 1.137(b) cannot be granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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MAR 23 2007

OFFICE OF PETITIONS

In re Application of
Nijjer, et al
Application No.: 11/357,316
Filed: February 17, 2006
Attorney Docket No.: PILL-1-1005
For: RECORDING DEVICE

ON PETITION

This decision addresses the reconsideration petition to revive under 37 CFR 1.137(b) and the reconsideration petition under 37 CFR 1.47(a), filed March 9, 2007.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

A review of the file reveals that on March 22, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit the required payment of a $65.00 surcharge under 37 CFR 1.16(e) and a properly executed oath or declaration.

On October 23, 2006, a petition for a five month extension of time and required fee, the late declaration surcharge and a partially executed declaration were filed.

On October 25, 2006, Notice of Incomplete Reply was mailed to petitioners because the signature of Beverley Elizabeth Alexandra Ward was missing from the declaration. The Notice of Incomplete Reply explained that that period of reply as set forth in the March 22, 2006 Notice to File Missing Parts of Nonprovisional Application remained in effect. Therefore, the application became abandoned on October 23, 2006 because petitioners failed to file a Rule 47 petition or a fully executed declaration prior to the expiration of the maximum obtained period for response.

Petitioners have shown that the non-signing inventor, Beverley Elizabeth Alexandra Ward, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the revised statement of facts of Jay Nijjer establishes that Ms. Ward was presented with a complete copy of the application and a declaration for her execution and that she has failed to return an executed declaration. Other attempts to contact her have been unsuccessfully. Ms. Ward appears to be engaging in a pattern of avoidance. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Applicants have submitted a proper reply to the March 22, 2006 Notice, an acceptable statement of the unintentional nature of the delay in responding to the March 22, 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 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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Beverley Elizabeth Alexandra Ward
79 Bristol Road
Edgbaston, Birmingham B5 7TU
United Kingdom

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MAR 23 2007

OFFICE OF PETITIONS

In re Application of
Nijjer, et al
Application No.: 11/357,316
Filed: February 17, 2006
Attorney Docket No.: PILL-1-1005
For: RECORDING DEVICE

: LETTER

Dear Ms. Ward:

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: BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

COPY MAILED
JUL 07 2006
OFFICE OF PETITIONS

In re Application of:
Webel, Lauderdale
Application No. 11/357,347 : ON PETITION
Filed: February 17, 2006
Docket No.: 834460-79397
PGPUB: n/a

This is a decision on the petition filed by a third party April 12, 2006, which is being treated under 37 CFR 1.181 as a request to refuse (1) favorable consideration of any forthcoming Rule 47 petition, (2) any claim for benefit of prior application(s) 10/954,314 and 60/508,509, and (3) require that Webel provide evidence of his joint inventorship.

The petition is **dismissed. The document will be permitted to remain in the file and may be treated to the extent possible as a protest filed under 37 CFR 1.291. The active participation of petitioner/protestor in this application ended with the filing of the protest.** See 37 CFR 1.291(d). No communication with protestor will be undertaken.

Petitioner is the attorney of record in prior filed non provisional application no. 10/954,314 filed September 30, 2004, which according to USPTO records was published on 06/16/2005 as US20050130894A1, and which named James Lauderdale as the sole inventor. The petition indicates that Mr. Lauderdale has been requested to sign a declaration under 37 CFR 1.63 indicating joint inventorship herein with Mr. Webel. However, petitioning counsel is not of record in this application of different inventive entity, and it is clear that petitioning counsel is not also acting in a representational capacity for Mr. Webel in this application.

The statements given in the petition are being construed as a protest to the issuance of a patent to the instant joint inventive entity. Since the petition occupies 2 pages, and no service on applicant was indicated, a courtesy copy is enclosed with this decision. See MPEP 1901.05 subsection II.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

Enclosure: Petition/Protest filed April 12, 2006

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APR 12 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Stephen Kent Webel

Serial No.: 11/357,347 Art Unit: Not Yet Assigned

Filed: February 17, 2006 Examiner:

For: *PROCESS FOR THE SYNCHRONIZATION OF OVULATION OF TIMED BREEDING WITHOUT HEAT DETECTION*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO THE COMMISSIONER

Sir:

It has been brought to the attention of the undersigned that this application has been filed with a priority claim to U.S.S.N. 10/954,314 filed September 30, 2004, which claims priority to provisional application U.S.S.N. 60/508,509 filed October 3, 2003. The undersigned is attorney of record in U.S.S.N. 10/954,314.

A letter was sent on March 14, 2006, to the inventor of U.S.S.N. 10/954,314 filed September 30, 2004, and provisional application U.S.S.N. 60/508,509 filed October 3, 2003, James W. Lauderdale, demanding that he sign a declaration to be filed in U.S.S.N. 11/357,347 naming Stephen Kent Webel as co-inventor.

The inventor was not advised of this filing nor shown the application until more than one month after its filing.

04/13/2006 EAYALEW1 00000097 503129 11357347
01 FC:1464 130.00 DA

U.S.S.N. 11/357,347
Filed: February 17, 2006
PETITION TO THE COMMISSIONER

A call to the attorney sending the demand letter, Rebecca Ball, and her supervising attorney, Paul Hunt, at Barnes & Thornburg LLP requesting the basis for the application and why Mr. Lauderdale should include another inventor was unsuccessful in obtaining any information as to why this application was filed, what contribution Stephen Webel made, and why the parties are pursuing this matter in an adversarial manner in the U.S. Patent Office without any prior discussion with the undersigned or the assignee of U.S.S.N. 10/954,314, Thorne BioScience.

The demand letter advises that U.S.S.N. 11/357,347 will be pursued by petition to accord a filing date on the basis that Mr. Lauderdale refuses to sign the declaration. This petition should be denied and the priority claims denied. Should the application proceed, Stephen Webel should be required to provide evidence of why he should be named as a coinventor of technology described and claimed in an application filed more than two years earlier by Mr. Lauderdale.

Respectfully submitted,

Patrea L. Pabst
Reg. No. 31,284

Date: April 12, 2006
PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361
(404) 879-2151
(404) 879-2160 (Facsimile)

PAGE 6/6 * RCVD AT 4/12/2006 4:48:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-22

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INDIANAPOLIS IN 46204

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AUG 0 9 2006

OFFICE OF PETITIONS

In re Application of:
Webel, Lauderdale
Application No. 11/357,347
Filed: February 17, 2006
Docket No.: 834460-79397
PGPUB: n/a

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition filed July 27, 2006, under 37 CFR 1.47(a) to accord this application status in the absence of the signature joint inventor Lauderdale.

The petition is **granted**.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status and the Office of Initial Patent Examination (OIPE) is authorized to

(1) accept this application under Rule 1.47(a);

(2) process the application with the inventors being Webel and Lauderdale, using the declaration filed on July 27, 2006; and

(3) mail a filing receipt with a filing date of February 17, 2006.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to OIPE for further processing.

Inquiries related to this communication may be addressed to the undersigned at (571)272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

Mail Date: 04/21/2010

Applicant	: Dugan O'Keene	: DECISION ON REQUEST FOR
Patent Number	: 7641163	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Jianfeng Huang, et al.	:	
Application No. 11/357,350	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHDRAW
Attorney Docket No. 025748-001100US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on April 29, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JONES DAY
1755 EMBARCADERO ROAD
PALO ALTO, CA 94303

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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MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Liann M. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7608099	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: 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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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Boyd, et al. :
Application No. 11/357,375 : DECISION ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. TUC920050096US1 :

This is a decision on the petition, filed August 10, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed July 1, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 9, 2009.

Petitioner asserts that the Office action dated July 1, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to the Technology Center technical support staff of Art Unit 2113 for processing of the reply received with the petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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LAMORTE & ASSOCIATES, P.C.
P.O. BOX 434
YARDLEY, PA 19067

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Webb T. Nelson, et. al.	:	
Application No. 11/357,377	:	ON PETITION
Filed: February 18, 2006	:	
Attorney Docket No. PV-71	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed May 8, 2008.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Eric A. LaMorte 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3711 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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BERENATO, WHITE & STAVISH
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA MD 20817

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JUN 2 8 2006

OFFICE OF PETITIONS

In re Application of
Mark R. Allen et al.
Application No. 11/357,405
Filed: February 21, 2006
Attorney Docket No. 5211.052

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(b) on May 22, 2006 which is treated under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on February 21, 2006, naming Mark R. Allen and David Allen as joint inventors but without an executed oath or declaration. Accordingly, a Notice to File Missing Parts was mailed March 22, 2006 requiring an executed oath or declaration.

In response, the instant petition and an oath or declaration executed only by joint inventor David Allen was filed, seeking status under 37 CFR 1.47 claiming Mr. Mark R. Allen expressly refuses to execute the declaration.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, two inventors have been named but the oath or declaration is missing the signature of only one of the named inventors, thus, this petition will be treated under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to the non-signing inventors at his last known email address and that he has responded, by email, expressly refusing to execute a power of attorney. Although Mr. Mark R. Allen does not indicate his refusal to execute the oath or declaration and to cooperate with the filing of the instant application, the fact that he has been forwarded the application papers and has not to date returned any executed documents, we will construe his actions to be that of a refusal.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 2875 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 4/9/2009
Patent No. : 7,423,421 B2
Serial No. : ~~10/357,433~~ **11/357,433**
Inventor(s) : Reichert et al.
Issue Date : September 9, 2008
Title : **DEVICE FOR SENSING A DISPLACEMENT FOR A LINEAR DRIVE, AND LINEAR DRIVE**
Doc./File No. : **BOEH127154**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

The alleged error appearing in the printed patent at item (30) Foreign Application Priority Data, is a editing change made in accordance with the Style Manual of the Government Printing Office and the Patent Data Base Entry Preparation Manual. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request in this matter is denied.

A certificate of correction will issue to correct the remaining errors noted in your request.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

ECW

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Milan Slamka et al. :
Application No. 11/357,441 : ON PETITION
Filed: February 17, 2006 :
Attorney's Docket No. **1006-224/JRD** :

This is a decision on the petition filed December 9, 2007 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on May 23, 2006, for failure to timely reply to the Notice to File Missing Parts, mailed March 21, 2006, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed November 28, 2007.

The submission of the oath or declaration, filing fees and late surcharge, as required by the Notice to File Missing Parts mailed March 21, 2006 is acknowledged.

All other requirements having been met , this application is being forwarded to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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 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)).

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/357,487	02/17/2006	Jerry D. McBride	2269-4299.2US (99-0876.02

TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY UT 84110

DATE MAILED: September 20, 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 August 15, 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. Debram
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 05/05/2010

Applicant	: David T. Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7668978	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/357,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **214** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 OFFICES OF MORLAND C FISCHER
2030 MAIN ST
SUITE 1300
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
James B. Klassen :
Application No. 11/357,523 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. KFI-101D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 3, 2008, as required by the Notice of Allowance and Fee(s) Due mailed July 3, 2008. Accordingly, the application became abandoned on October 4, 2008. A Notice of Abandonment was mailed October 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BRYAN CAVE LLP
211 NORTH BROADWAY
SUITE 3600
ST. LOUIS MO 63102-2750

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AUG 23 2006
OFFICE OF PETITIONS

In re Application of :
Eller et al. :
Application No. 11/357,580 : DECISION ON PETITION
Filed: 17 February, 2006 :
Atty Docket No. C018497/0123324 :

This is a decision on the "REPLY TO NOTICE TO FILE MISSING PARTS OF APPLICATION," filed on 15 May, 2006, which is treated as a petition requesting that the above-identified application be accorded a filing date of 17 February, 2006, with Figure 4 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 17 February, 2006, the application was filed.

Accordingly, on 22 March, 2006, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 17 February, 2006, but that Figure 4 described in the specification appeared to have been omitted.

In response, on 15 May, 2006, the present petition and a copy of one (1) sheet of drawings containing Figure 4 were filed. Petitioners argue that the sheet of drawings containing Figure 4 described in the specification was filed with the other application papers on 17 February, 2006, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 17 February, 2006, with the above-identified application number, and identifies the application by the attorney docket number, first named inventor's last name, and

invention title, and acknowledges receipt of, *inter alia*, "Drawings."

A review of the papers originally filed reveals that three (3) sheets of drawings containing Figures 1, 2 and 3 were received on 17 February, 2006. No drawing Figure 4 was filed on 17 February, 2006, since no such drawing figure is present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioners believe the sheet of drawings was among the papers they included in the application is not more persuasive than the actual papers shown to have been received in the official file.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. 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. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

Unfortunately, in this case, petitioners' postcard receipt fails to adequately itemize the papers allegedly filed in this application. Specifically, the postcard receipt does not itemize the number of sheets and figures of drawings filed. Rather, the postcard simply itemizing the filing of "Drawings".

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard

[1] MPEP 503.

identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Furthermore, there is no provision in the rules for a "Certificate of Express Mailing."

The petition is dismissed.

The copy of Figure 4 of the drawings supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioners may file Figure 4 as a preliminary amendment. If the sheet containing Figure 4 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

As the petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 17 February, 2006, using the application papers filed on that date,

Telephone inquires should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. Box 571
CLAREMONT CA 91711

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OFFICE OF PETITIONS

In re Application of :
Ken Detjen :
Application No. 11/357,593 : DECISION ON PETITION
Filed: February 18, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 12012005 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant's birth certificate proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Mario Ricco et al :
Application No. 11/357,594 : DECISION ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. P/2528-36 :

This is a decision on the petition, filed March 29, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed August 19, 2009, which set a three (3) month shortened statutory period for reply. An Advisory Action was mailed on March 5, 2010.

Applicant files the present petition and states that, "In the August 19, 2009 Office Action, on the cover page, at item 2a) under the "Status" heading, the indication is that this Office Action is a non-final Office Action." Applicant further states that the Office Action was entered by the docketing personnel at the law firm of Ostrolenk Faber LLP ("Ostrolenk") as a "non-final rejection".

In support of the instant petition, a declaration of Lauren M. Ngai states that, "For patent application Serial No. 11/357,594, which is also identified in our files under our docket number 2528-0036, I entered the Office Action of August 19, 2009 as a nonfinal rejection based on reviewing the cover sheet of the Office Action and noting that it is [sic] expressly identified the

action as a non-final rejection. Ms. Ngai further states that, "After I entered the particulars for that Office Action in the computer docketing system, I also prepared a paper known as a "docketing AK slip" and on it I indicated the particular action as a non-final and affixed it to the outside panel of the physical file used by the attorney."

Petitioner asserts that at the time he signed the response on January 7, 2010, he was not aware that he was responding to a Final Rejection, and that in his initial review of the Office Action, he may have seen the last page of the Office Action and its indication that it is a Final Rejection, he relied on the notations on the file jacket and possibly on the docket entries and failed to note that the Office Action required either a Notice of Appeal or an RCE to be filed, to prevent abandonment.

Regrettably, the evidence presented is not convincing to withdraw the holding of abandonment. Namely, because the last page of the Office Action clearly indicated in bold "**THIS ACTION IS MADE FINAL.**" Also, the last paragraph reads:

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Regardless of the fact that the Office Action was entered by the docketing personnel as a non-final rejection and that the cover page of the final Office Action mailed August 19, 2009, incorrectly indicated non-final, the last two (2) paragraphs of the Office Action itself clearly identified that the Office Action was Final.

In view of the above, the petition under 37 CFR 1.181 to Withdraw Holding of Abandonment is dismissed.

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 $$620.00 extension of time fee submitted with the petition on March 29, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Additionally, no fee is required for the petition under 37 CFR 1.181(a). Petitioner may request a refund of the extension fee ($620.00) and the petition fee ($400.00) by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORR CARSON & BIRNEY, P.C.
ONE CHERRY CENTER
501 SOUTH CHERRY STREET
SUITE 800
DENVER, CO 80246

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Pershing Roland Van Scoyk	:	
Application No. 11/357,600	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1100/29(b)	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a copy of a birth certificate. 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 3643 for action on the merits commensurate with this decision.

Wan Laymon
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/357,601	02/17/2006	Jeffrey B. Parham	14917.0206USC1	4446

23552 7590 06/11/2008

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
DOAN, DUYEN MY	

ART UNIT	PAPER NUMBER
2152	

MAIL DATE	DELIVERY MODE
06/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Rene A. Pereyra
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Jeffrey PARHAM
Application No.: 11/357,601
Filed: February 17, 2006
For: NON-INVASIVE LATENCY MONITORING IN A STORE-AND-FORWARD REPLICATION SYSTEM

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 23 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

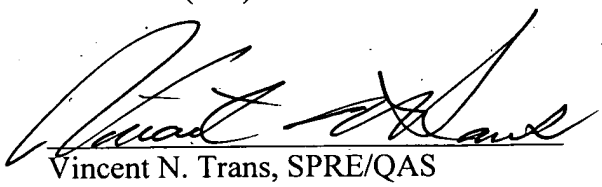
The petition is **DISMISSED**.

Petitioner requests that the information submitted on 23 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 23 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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MAILED

JUN 12 2007

Technology Center 2100

Karen L. Kaufman
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, California 94303

In re Application of:
Ziyad M. DAHBOUR
Application No. 11/357,617
Filed: February 16, 2006
For: HIERARCHAL DATA MANAGEMENT

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on 24 August 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 24 August 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the

application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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JAN 27 2010

In re Application of	:	
Dahbour, Ziyad M.	:	DECISION ON PETITION
Application No. 11/357,617	:	TO WITHDRAW
Filed: February 16, 2006	:	FROM RECORD
Attorney Docket No. PA2878US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2008.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were appointed via Customer Number. However, Brent K. Whitlock is not currently one of the listed attorneys/agents associated with Customer Number 22830. Accordingly, the request cannot be granted at this time.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

The application became abandoned for failure to timely respond to the Office action mailed October 1, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES CA 90024

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OFFICE OF PETITIONS

In re Application of	:	
Steven T. Islava	:	
Application No. 11/357,623	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHFRAW
Attorney Docket No. 16035.900301	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.136(b) filed December 26, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Liner Yankelevitz Sunshine and Regenstreif has been revoked by the applicant of the patent application on February 15, 2007. Accordingly, the request to withdraw under 37 CFR 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Cc: MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE, CA 92612

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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JACKSON WALKER, L.L.P.
112 E. PECAN, SUITE 2400
SAN ANTONIO, TX 78205

Mail Date: 04/20/2010

Applicant	: Torahiko Hayashi	: DECISION ON REQUEST FOR
Patent Number	: 7578232	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,624	: OF WYETH
Filed	: 02/17/2006	:
		:

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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RUTAN & TUCKER, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Walter Parsadayan :
Application No. 11/357,626 : DECISION ON PETITION
Filed: February 16, 2006 : TO WITHDRAW
Attorney Docket No. 023074.000US2 : FROM RECORD
:

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 7, 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 petition had not certified (1) that he has given reasonable notice to the client, prior to expiration of a response period, that the practitioners(s) intends to withdraw from employment; (2) deliver 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. The failure to do so ma subject the practitioner to discipline.

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: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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MAR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,510,506
Issue Date: March 31, 2009
Application No. 11/357,634
Filed: February 17, 2006
Attorney Docket No. 03191/1200755-US1

DECISION ON PETITION

This is a decision on the Petition Under 37 CFR 1.183 And Request For Certificate Of Correction Pursuant To 37 CFR 1.322 and 37 CFR 1.323, filed on July 16, 2009 to correct assignee's name on the PTOL-85B. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the error in the spelling of the assignee's name on the previously submitted PTOL-85B and that such correction was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB-44) be issued to correct the name of the assignee identified thereon from:

"LuK Lamellen und Kupplungabau Beteiligungs KG"

to

--LuK Lamellen und Kupplungsbau Beteiligungs KG--

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) and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) was submitted with 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. 7,510,506.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJr : 11-07

WOLF GREENFIELD
& SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Wu, et al. :
Application No. 11/357,642 : DECISION
Filed: 17 February, 2006 :
Attorney Docket No. H0678.70005US00 :

This is a decision on the petition filed on 8 January, 2007, supplemented on 11 September, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (misidentified by Petitioner on petition as a "Notice of Missing Parts") mailed on 21 March, 2007, with reply due on or before 21 May, 2007;

- the application went abandoned after midnight 21 May, 2007;

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

- the Office mailed the Notice of Abandonment on 28 November, 2006;

- on 8 January, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a reply to the Office action in question had been timely and properly filed, a date stamped (MAY 04 2006") receipt card (see: MPEP §503[1]), a copy of the required reply, such showings in documents and statement as are consistent with the guidance in the Commentary at MPEP §711.03(c)), and the record now evidences receipt of the reply on 4 May, 2007.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

---

[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.)

representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

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[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 28 November, 2006, Notice of Abandonment is **vacated**.

The instant application is released to OIPE for further processing as necessary herein in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/357,650	02/17/2006	Gyu-Woong Lee	5000-1-839	5920

7590 08/13/2008

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
ANDERSON, MATTHEW D	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
08/13/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Repln. Ref: 08/13/2008 BPOWELL 0012435700
DA#:502470 Name/Number:11357650
FC: 9204 $500.00 CR

Adjustment date: 08/13/2008 BPOWELL
02/23/2006 LWONDIM1 00000014 11357650
02 FC:1111 -500.00 OP

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Shaohong Wei	: DECISION ON REQUEST FOR
Patent Number	: 7580974	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **647** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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NOV 1 8 2008

In re Application of	:	
John D. RALSON, et al	:	
Application No. 11/357,661	:	DECISION ON PETITION
Filed: February 16, 2006	:	TO WITHDRAW
Attorney Docket No. 74189-010501/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 8, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Greenberg, Traurig, LLP, has been revoked by the applicant of the patent application on July 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SQUIRE, SANDERS & DEMPSEY LLP
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

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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Richard W. Hoffmann
PO Box 70098
Rochester Hills MI 48307

Applicant: Sophiea et al.
Appl. No.: 11/357,672
Filing Date: February 17, 2006
Title: WATER BASED DAMPER
Attorney Docket No.: DWNS.64175A
Pub. No.: US 2006/0189743 A1
Pub. Date: August 24, 2006

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OFFICE OF PETITIONS

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 27, 2007, for the above-identified application.

The instant request is that the application be republished because the patent application publication contains incorrect drawings.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on January 27, 2007, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

[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 amendment received by the Office on May 4, 2006, which was improperly scanned into this application and published has been removed from the application.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 23 2010

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

In re Patent of Baker et al.	: DECISION ON REQUEST FOR
Patent No. 7,582,621	: RECONSIDERATION OF
Issue Date: September 1, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/357,687	: AND NOTICE OF INTENT TO ISSUE
Filed: February 16, 2006	: CERTIFICATE OF CORRECTION
Atty. Docket No. 064507-5014US	:

This is a decision on the petition filed September 25, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred sixty-four (464) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred sixty-four (464) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred sixty-four (464)** days.

Telephone inquiries specific to this matter 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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,621 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Baker et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 267 days

Delete the phrase "by 267 days" and insert – by 464 days--

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MAX W. GARWOOD
450 N. JEFFERSON STREET
P.O. BOX 30
HUNTINGTON IN 46750

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
HONEYAGER, Jeffrey et al. :
Application No. 11/357,700 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. **STG001** : 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 20, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that Justin R. Wall does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **G. ROBERT PRESTON**
THE STABLE GROUP, INC.
1028 N. PARK NE
GRANDRAPIDS, MI 49525

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: 04/21/2010

Applicant	: Chun-Ming Wang	: DECISION ON REQUEST FOR
Patent Number	: 7603001	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: 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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Date: 05/17/10

Patent No. : 7700202 B2
Ser. No. : 11/357,716
Inventor(s) : EASLER, TIMOTHY E.
Issued : 04/20/10
Title : **A PRECURSOR FORMULATION OF A SILICON CARBIDE MATERIAL**
Docket No. : **2507-7346US(22123-US-01)**

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 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (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
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY UT 84110

LMN

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DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Gaskin, et al.	:	
Application No. 11/357,729	:	DECISION ACCORDING STATUS
Filed: February 17, 2006	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. DNA1210-1	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 20, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

On petition, petitioner has established that inventor Gaskin has refused to sign the application papers. Specifically, petitioner has shown that a mailing to Gaskin was returned as "refused".

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 matter is being forwarded to Group Art Unit 1631 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES Z GASKIN
3270 ROWENA ST
SARASOTA FL 34231

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of
Gaskin, et al.
Application No. 11/357,729
Filed: October 20, 2006
Title: Multiplex Assays for Inferring Ancestry

LETTER

Dear Mr. Gaskin:

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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United States Patent and Trademark Office
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MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

Mail Date: 04/21/2010

Applicant	: Rima Kaddurah-Daouk	: DECISION ON REQUEST FOR
Patent Number	: 7635556	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 06/17/2010

Applicant	: Robert Van Zant	: DECISION ON REQUEST FOR
Patent Number	: 7634543	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/357,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **876** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center,
Eighth Floor
San Francisco, CA 94111-3834

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Eugeny Lukhtanov et al. :
Application No. 11/357,750 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. 17682A-007340US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 2009.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on September 29, 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jackson Walker, LLP
901 Main Street
Suite 6000
Dallas, TX 75202-3797

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/26/2010

Applicant	: Beau Jay Polinske	: DECISION ON REQUEST FOR
Patent Number	: 7593538	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/357,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **36** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Adam William Saxler	: DECISION ON REQUEST FOR
Patent Number	: 7612390	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,752	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **574** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. None

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of :
Eric Davis et al. :
Application No. 11/357,765 : DECISION ON PETITION UNDER
Filed: February 16, 2006 : 37 C.F.R. §1.182
Attorney Docket No.: :
018360/308023 :
Title: SYSTEMS FOR SELECTIVELY :
ENABLING AND DISABLING ACCESS :
TO SOFTWARE APPLICATIONS OVER A :
NETWORK AND METHODS FOR USING :
SAME :

This is a decision on the petition filed March 27, 2006, requesting that the above-identified application, including Figure 2, be accorded a filing date of February 16, 2006 as part of the original disclosure.

The application was deposited on February 16, 2006. However, on March 21, 2006, 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 it appeared that Figure 2 had been omitted on filing. The notice set a two-month period of reply.

In response, on March 27, 2006, applicants filed the present petition. The petition is further accompanied by a copy of Figure 2, along with a copy of applicants' postcard receipt acknowledging receipt of "No. of Drawings Sheets 18" in the United States Patent and Trademark Office (Office) on February

16, 2006. Applicants request that Figure 2 be accorded a filing date of February 16, 2006.

Upon review of the electronic file, the file contains seventeen sheets of drawings, and the page containing Figure 2 has not been located. However, the evidence is convincing that the application papers deposited on February 16, 2006 included Figure 2, and the sheet containing this figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 2, was complete on filing and entitled to a filing date of February 16, 2006 as part of the original disclosure.

Accordingly, the petition under 37 C.F.R. §1.182 is **GRANTED.**

The notice mailed March 21, 2006 was sent in error, and the notice is hereby **VACATED.** Therefore, the petition fee will be refunded to Petitioner's Deposit Account in due course.

OIPE will be advised to process the application with a filing date of February 16, 2006, using the original application papers filed on that date, as well as Figure 2 submitted on March 27, 2006, and for noting in Office records that this figure was present on filing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Cochrum et al.	:	
Application No. 11/357,770	:	ON PETITION
Filed: February 17, 2006	:	
Attorney Docket No. 14004-005002	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 10, 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, Kent C. Cochrum. 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 1623 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

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MAR 31 2008

OFFICE OF PETITIONS

In re Application of	:	
Ritzberger, et al.	:	
Application No. 11/357,780	:	ON PETITION
Filed: February 17, 2006	:	
Attorney Docket No. 20959/2371	:	

This is in response to the "PETITION FOR CHANGE OF INVENTOR'S NAME UNDER 37 C.F.R. § 1.182", filed September 18, 2006.

Applicants have requested to correct the name of inventor Christian van't Hoen to Christian Ritzberger. Included was a declaration from Ritzberger, explaining that he took his wife's last name when they were married. Also included was a copy of the German language wedding certificate.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

The file is being forwarded to the Office of Patent Publication for processing into a patent.

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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DRIGGS, HOGG, DAUGHERTY &
DEL ZOPPO CO., L.P.A.
38500 CHARDON ROAD
DEPT. DLBH
WILOUGBY HILLS OH 44094

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MAR 20 2008

In re Application of :
John T. Bennington et al :
Application No. 11/357,793 : DECISION ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. SNE-10-5894-C1 :

This is a decision on the petition, filed July 30, 2007, under 37 CFR 1.137(a), which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 3, 2006. A Notice of Abandonment was mailed on June 8, 2007.

Petitioner asserts that the Office action dated November 3, 2006 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of November 3, 2006. In this regard, Office records show that an incorrect customer number was entered for the correspondence address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed June 8, 2007 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center Art Unit 3725 for the examiner to consider the amendment/election received July 30, 2007.

Telephone inquiries concerning 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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RICHARD A. RYAN
ATTORNEY AT LAW
8497 N. MILLBROOK AVENUE
SUITE 101
FRESNO, CA 93720

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APR 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Barbara L. Perry	:	
Application No. 11/357,830	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RAR619.03	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a copy of birth certificate. 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 3673 for action on the merits commensurate with this decision.

Wan Laymon
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/357,837	02/16/2006	Susan Lynn Riley	VA9944P	6378

7590 03/31/2009

Stout, Uxa, Buyan & Mullins, LLP
Suite 300
4 Venture
Irvine, CA 92618

EXAMINER	
SCHATZ, CHRISTOPHER T	
ART UNIT	**PAPER NUMBER**
1791	

MAIL DATE	DELIVERY MODE
03/31/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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wk

Mailed: 3/31/09

In re application of	:	
Riley et al.	:	DECISION ON
Serial No. 11/357,837	:	PETITION
Filed: February 16, 2006	:	
For: Resorbable Hollow Devices For Implantation And Delivery Of Therapeutic Agents	:	

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on March 27, 2009 to Vacate The Final Office Action dated March 19, 2009.

A Final Office Action was mailed on December 22, 2008. Applicants filed an amendment after final on January 14, 2009. The Examiner issued an advisory on February 10, 2009 not entering the amendment. Applicants filed an amendment on February 20, 2009. The Examiner issued a Final Rejection on March 19, 2009 withdrawing the finality of December 22, 2008 action and indicating that Applicant's amendment of February 20, 2009 has been entered.

Applicants assert that the February 20, 2009 amendment contained no substantive claim amendments and that the Examiner's action contained new grounds of rejection which were not necessitated by any amendment and which were not based upon any new art cited in an IDS.

A review of the record indicates that the Examiner's office action of December 22, 2008 was based on the amendment that was filed on August 23, 2008. The Examiner's new grounds were not necessitated by the amendment of February 20, 2009.

DECISION

The petition for withdrawal of finality is **GRANTED.** The response period will continue to run from the mail date of the office action of March 19, 2009.

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Kenton R. Mullins
Stout, Uxa, Buyan & Mullins, LLP
Suite 300
4 Venture
Irvine CA 92618

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GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

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SEP 10 2008

In re Application of :
HODZIC, Edin :
Application No. 11/357,860 : DECISION ON PETITION
Filed: February 17, 2006 : TO WITHDRAW
Attorney Docket No. **078297-200101/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 May 21, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Greenberg Traurig, LLP has been revoked by the assignee of the patent application on June 27, 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: **SHEMWELL MAHAMEDI LLP**
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE CA 95129

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Harper, Terry D.	:	DECISION ON PETITION
Application No. 11/357,869	:	TO MAKE SPECIAL
Filed: February 16, 2006	:	37 CFR 1.102(c)
Attorney Docket No. 040241-000110US	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed February 16, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have

their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The specification and claims as originally filed indicate the invention is directed to a correctional facility communication system. The petition states the invention "allows keyword searching and/or data mining of communications that can be used to counter activities by terrorists with correctional facilities." As stated above, 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. Further, monitoring the communications does not materially contribute to countering terrorism. Further steps would be required to actually offset or nullify terrorism. 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

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 2614 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CLISE, BILLION & CYR, P.A.
605 U.S. HIGHWAY 169, SUITE 300
PLYMOUTH, MN 55441

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of :

Donna R. LUNAK, et *al.* :
Application No. 11/357,877 : DECISION ON PETITION TO
Filed: February 17, 2006 : WITHDRAW FROM RECORD
Attorney Docket No. **01845.0039-US-01** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 30, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted a correspondence address change directing all future correspondence for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

COPY MAILED

MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Georges NATSOULIS, et al	:	
Application No. 11/357,887	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHDRAW
Attorney Docket No. ENTL-055.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 January 27, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Howrey LLP-CA., has been revoked by the assignee of the patent application on February 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ENTELOS, INC.
C/O LAW OFFICES OF KAREN E. FLICK
P.O. BOX 515
EL GRANDA CA 94018-0515

cc: ADAM K. WHITING
HOWREY LLP,
1950 UNIVERSITY AVENUE, 4TH FLOOR
EAST PALO ALTO, CA 94303-2281

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BERKELEY LAW & TECHNOLOGY GROUP LLP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of :
Chuan-Yu Hsu et al :
Application No. 11/357,895 : ON PETITION
Filed: February 17, 2006 :
Attorney Docket No. 112.P14141 :

This is in response to the petition under 37 CFR 1.47(a), filed October 30, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 items (1) and (2) set forth above.

As to item (1), Exhibit 2 of the affidavit is not in the English language. Where evidence is supplied in support of a refusal of an inventor to sign an oath or declaration, such evidence must be in the English language. Accordingly, a translation of Exhibit 2 must be supplied with the renewed petition under 37 CFR 1.47(a).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented.

The declaration does not set forth inventor Hsu's mailing address (and residence if inventor lives at a location which is different from where he customarily receives mail). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by joint inventor Chen-Hsiang Shih on behalf of himself and Chuan-Yu Hsu is REQUIRED. Alternatively, the above information may be supplied in an Application Data Sheet. *See* 37 CFR 1.76 and MPEP 409.03(a).

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 Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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BERKELEY LAW & TECHNOLOGY GROUP LLP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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OFFICE OF PETITIONS

In re Application of	:	
Chuan-Yu Hsu and Chen-Hsiang Shih	:	DECISION NOTING JOINDER OF
Application No. 11/357,895	:	INVENTOR AND PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 112.P14141	:	

Papers filed on March 19, 2007 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed February 6, 2007, included a Declaration signed by a previously non-signing inventor, Chen-Hsiang Shih, in compliance with 37 CFR 1.63.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

This application is being referred to Technology Center AU 2625 for such further action as the nature of the case requires.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST, SUITE 600
PORTLAND, OR 97205

In re Application of :
Chuan-Yu Hsu et al. : DECISION ON PETITION
Application No. 11/357,895 :
Filed: February 17, 2006 :
Atty Docket No. 9585-0232 :
:

This is a decision on the petition filed on February 19, 2009, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

BACKGROUND

1. On February 17, 2006, the application was filed as an application for reissue of U.S. Patent No. 6,693,730.

2. On May 3, 2007, a "Decision Noting Joinder of Inventor..." was issued by the Office.

3. On May 1, 2008, a supplemental reissue declaration signed by joint inventor Shih was filed, signed by inventor Chen-Hsiang Shih on behalf of himself and inventor Chuan-Yu Hsu.

4. On January 27, 2009, an Examiner's Interview Summary was mailed, stating that pursuant to an interview held on January 8, 2009, the examiner informed applicant that a petition to accept a supplemental reissue declaration signed by less than all of the inventors was required.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

5. On February 19, 2009, the present petition, taken under 37 CFR 1.183, was filed. Petitioners assert that joint inventor Chuan-Yu Hsu has refused to sign the supplemental declaration. Specifically, counsel's paralegal, Pei-Shan Kao, states that,

> "On April 21, 2008, I sent the originally-granted patent text (including the specification, claims and drawings) of U.S. Patent No. 6,693,730, the broadening claim set filed for Reissue Patent Application No. 11/357,895 and a declaration form to Mr. Chuan-Yu Hsu's secretary, Carrie Chang, via e-mail; On April 22, 2008, I received a phone call from Ms. Carrie Chang. Ms. Chang confirmed with me that Mr. Chuan-Yu Hsu has received and reviewed my e-mail dated 21 April 2008 and he doesn't intend to sign this document for his personal reason;"

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

Petitioners state that joint inventor Chuan-Yu Hsu has constructively refused to sign the supplemental reissue declaration. Specifically, Chuan-Yu Hsu has failed to sign and return the supplemental reissue declaration.

In view of the efforts recounted in the petition to locate and obtain the signature of Chuan-Yu Hsu on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Chuan-Yu Hsu on the supplemental declaration filed on October 30, 2006.

CONCLUSION

1. The petition is granted.

2. Jurisdiction over the application is being forwarded to Technology Center Art Unit 2625 for further processing.

3. Telephone inquiries related to this decision only should be directed to Irvin Dingle at (571) 272-3210.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MACRONIX
C/O HAYNES BEFFEL & WOLFELD LLP
P. O. BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Erh-Kun Lai	: DECISION ON REQUEST FOR
Patent Number	: 7599217	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/357,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **362** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2600

SCHWARTZ COOPER CHARTERED
IP DEPARTMENT
180 NORTH LASALLE STREET
SUITE 2700
CHICAGO IL 60601

In re Application of:
BAILEY, DOUGLAS S., et al.
Serial No.: 11/357,907
Filed: February 17, 2006
Title: **SENSOR FOR DETECTING HYDROCARBONS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 17, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323) and effective August 25, 2006, the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed concurrently and electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) at least because the petition was not filed concurrent with the application papers.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of :
Hamman et al. :
Application No. 11/357,929 : LETTER REGARDING
Filed: February 17, 2006 : PATENT TERM ADJUSTMENT
Docket No. 5490-000486 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. §1.705," filed August 14, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred forty-five (145) days to two hundred forty-two (242) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **168 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 2, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 145 days. On August 14, 2009, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 97 days associated with the filing of an amendment on August 18, 2008 (a Monday). Applicants assert that the response was filed, within 3 months of the mailing of the May 16, 2008 non-final Office action, and thus, no reduction

[1] PALM records indicate that the Issue Payment was filed on September 1, 2009.

was warranted in connection with the filing of the August 18, 2008 amendment.

37 CFR 1.704(b), which provides, in pertinent part, that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-final Office action was mailed on February 13, 2008. This non-final Office action was re-mailed on May 16, 2008. The May 16, 2008 Office action clearly states that it was meant "to replace [(the)] previous Office action mailed 2/13/08, of which claims 22-36 were inadvertently omitted." Therefore, any reduction pursuant to 37 CFR § 1.704(b) should be measured in relation to the re-mailed Office action (May 16, 2008).

In addition, applicants are reminded that the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicants may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicants may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

Any patent term adjustment in this application is subject to a reduction of 2 days for applicant delay for the period beginning on August 17, 2008, the day after the date that is three months after the mailing date of the May 16, 2008 non-final Office action, and ending on August 18, 2008, the date the reply was filed.

A review of the record reveals an additional basis for reduction. A period of reduction of 72 days should be entered in connection with a supplemental response, filed on October 29, 2008. After the August 18, 2008 amendment was filed, applicants filed an Information Disclosure Statement (IDS) on October 29, 2008. Pursuant to 37 CFR 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on August 18, 2008, applicants filed an IDS on October 29, 2008. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, a review of the IDS filed on October 29, 2008, reveals that it did not include a proper § 1.704(d) statement.[2]

Accordingly, a period of reduction of 72 days is being entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **168 days** (302 days of Office delay - 134 days of applicant delay).

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office

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[2] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

Day : Tuesday
Date: 11/17/2009

PALM INTRANET

Time: 18:41:32

PTA Calculations for Application: 11/357929			
Application Filing Date:	02/17/2006	PTO Delay (PTO):	302
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	157
Post-Issue Petitions:	0	Total PTA (days):	168
PTO Delay Adjustment:	23		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	11/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		72	
73	11/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
72	11/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	97		
65	06/02/2009	MAIL NOTICE OF ALLOWANCE			
64	05/30/2009	ISSUE REVISION COMPLETED			
63	05/28/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
62	05/28/2009	DOCUMENT VERIFICATION			
61	05/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	05/26/2009	NOTICE OF ALLOWABILITY			
59	05/07/2009	DATE FORWARDED TO EXAMINER			
58	05/07/2009	AMENDMENT AFTER FINAL REJECTION		60	56
57	05/07/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	12/08/2008	MAIL FINAL REJECTION (PTOL - 326)			
55	12/05/2008	FINAL REJECTION			
54	10/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	10/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	08/18/2008	NEW OR ADDITIONAL DRAWING FILED			
51	09/23/2008	DATE FORWARDED TO EXAMINER			
50	08/18/2008	RESPONSE AFTER NON-FINAL ACTION		97	42
49	05/02/2008	MISCELLANEOUS INCOMING LETTER			
48	05/16/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
47	05/09/2008	REFERENCE CAPTURE ON IDS			

46	05/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	05/12/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
44	05/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	05/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	02/13/2008	MAIL NON-FINAL REJECTION	302		-1
41	02/04/2008	NON-FINAL REJECTION			
39	05/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	04/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	10/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	08/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	09/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	10/11/2007	REFERENCE CAPTURE ON IDS			
31	10/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
29	10/16/2007	FLAGGED FOR 5/25			
28	10/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	09/12/2007	REFERENCE CAPTURE ON IDS			
25	09/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/22/2007	REFERENCE CAPTURE ON IDS			
22	08/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	08/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/23/2007	PG-PUB ISSUE NOTIFICATION			
18	07/25/2007	TRANSFER INQUIRY TO GAU			

17	07/11/2007	TRANSFER INQUIRY TO GAU			
16	05/04/2007	TRANSFER INQUIRY TO GAU			
15	04/16/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/02/2007	REFERENCE CAPTURE ON IDS			
13.7	04/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/22/2006	REFERENCE CAPTURE ON IDS			
11.7	05/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/22/2007	TRANSFER INQUIRY TO GAU			
9	06/06/2006	APPLICATION DISPATCHED FROM OIPE			
8	06/06/2006	APPLICATION IS NOW COMPLETE			
7	05/22/2006	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	05/22/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	03/22/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/17/2006	CLEARED BY L&R (LARS)			
3	03/09/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/02/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of :
Andre Trouet, et al. :
Application No. 11/357,966 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. 62745.000023 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 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 petitioner has not certified that they have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DIATOS SA
C/O: MAITRE DOMINIQUE WERNERT AVOCATE
48 AVENUE VICTOR HUGO
PARIS 75116 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

HARNESS, DICKEY
& PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

COPY MAILED

SEP 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/358,082 : DECISION
Filed/Deposited: 22 February, 2006 :
Attorney Docket No. 2421-000064/US :

This is a decision on the petition filed on 24 August, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 2 March, 2009, with reply due under a non-extendable deadline on or before 2 June, 2009

The application went abandoned by operation of law after midnight 2 June, 2009.

The Office mailed the Notice of Abandonment on 25 June, 2009.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, however, Petitioner failed to provide the complete set of statements and the documentation required, as set forth below. These include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
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> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no

> such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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Commissioner for Patents
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Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 0 7 2009

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/358,082 : DECISION
Filed/Deposited: 22 February, 2006 :
Attorney Docket No. 2421-000064/US :

This is a decision on the petition filed 30 October, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 2 March, 2009, with reply due under a non-extendable deadline on or before 2 June, 2009

The application went abandoned by operation of law after midnight 2 June, 2009.

The Office mailed the Notice of Abandonment on 25 June, 2009.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, however, Petitioner failed to provide the complete set of statements and the documentation required, as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). These include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 24 September, 2009.

On 30 October, Petitioner resubmitted a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt. It appears, however, that Petitioner failed to read with attention either the decision itself and/or the guidance in the Commentary at MPEP §711.03(c)(I)—which in fact was included in the decision for the convenience of Petitioner. As a result, Petitioner failed to provide the complete set of statements required—and folded into irrelevant materials the only two documents actually required, as once again set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). (The only due date at issue herein was/is the due date of the Fees Due, which was 2 June, 2009.) These elements include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability of the docketing system, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I). Further, Petitioner appears to digress on a tangent with a complaint that the Office referred to his system as a "manual" one—a computer search of the 24 September, 2009, decision reveals no inclusion of the term at any point in reference to Petitioner's system. What the decision did state is that Petitioner should use the guidance in the Commentary of the Manual of Patent Examining Procedure (MPEP) §711.03(c)(I) as his foundation for the showing required herein.

Once again, Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

Further, Petitioner should not confuse a request to with draw the holding of abandonment pursuant to 37 C.F.R. §1.181 with a petition to revive pursuant to 37 C.F.R. §1.137(a) and alleging unavoidable delay, or a petition to revive pursuant to 37 C.F.R. §1.137(b) and alleging unintentional delay.[1]

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.**
>
> **Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.**
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]**

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[1] *See*: MPEP §711.03(c) (I).

***

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. §1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. §1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C C.F.R. §1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. §1.137(b) based on unintentional delay.

***

[2] *See*: MPEP §711.03(c) (I)(A).

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, he may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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:

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In re Application of :
Kim, et al. :
Application No. 11/358,082 : DECISION
Filed/Deposited: 22 February, 2006 :
Attorney Docket No. 2421-000064/US :

This is a decision on the petition filed 17 December, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 2 March, 2009, with reply due under a non-extendable deadline on or before 2 June, 2009

The application went abandoned by operation of law after midnight 2 June, 2009.

The Office mailed the Notice of Abandonment on 25 June, 2009.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, however, Petitioner failed to provide the complete set of statements and the documentation required, as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). These include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 24 September, 2009.

On 30 October, Petitioner resubmitted a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt. It appears, however, that Petitioner failed to read with attention either the decision itself and/or the guidance in the Commentary at MPEP §711.03(c)(I)—which in fact was included in the decision for the convenience of Petitioner. As a result, Petitioner failed to provide the complete set of statements required—and folded into irrelevant materials the only two documents actually required, as once again set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). (The only due date at issue herein was/is the due date of the Fees Due, which was 2 June, 2009.) These elements include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability of the docketing system, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I). Further, Petitioner appeared to digress on a tangent with a complaint that the Office referred to his system as a "manual" one—a computer search of the 24 September, 2009, decision revealed no inclusion of the term at any point in reference to Petitioner's system. The petition was dismissed on 7 December, 2009.

On 17 December, 2009, Petitioner re-advanced his petition pursuant to 37 C.F.R. §1.181, pointed to the previously paid fees due, moved stepwise the guidance in the Commentary of the Manual of Patent Examining Procedure (MPEP) §711.03(c)(I), and made the showing required by providing the statements and documents specified therein.

With regard to a petition to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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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).

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted** and the 25 June, 2009, Notice of Abandonment is **vacated**.

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 Branch 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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/358,088	02/22/2006	Yoichiro Yamagata	286624US2S	7165

7590 09/15/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

EXAMINER	
TRAN, THAI Q	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
09/15/2008	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.

Kalethia Buchanan

Patent Publication Branch
Office of Data Management

Adjustment date: 09/12/2008 KKING1
02/23/2006 KBETEMA1 00000066 11358088
02 FC:1111 -500.00 OP

Refund Ref:
09/12/2008 0030061030

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1001

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1867 Ygnacio Valley Road
Walnut Creek, CA 94598

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Min-Heng Chiang	:	
Application No. 11/358,095	:	DECISION ON PETITION
Filed: February 22, 2006	:	
Attorney Docket No. FP11532	:	

This is a decision on the petition, filed November 10, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the non-Office action of April 20, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 20, 2006. A Notice of Abandonment was mailed on October 30, 2006.

Petitioner states that a timely reply to the non-final Office action of April 20, 2006 was mailed via certificate of facsimile transmission on July 18, 2006. In support of this allegation, petitioner has submitted a copy of the correspondence stated to have been previously transmitted, , which includes a certificate of facsimile transmission, dated July 18, 2006, which would have rendered the reply timely if received. Additionally, petitioner has submitted a copy of the facsimile transmission report, which evidences that seven pages were transmitted to facsimile number 571-273-8300 on July 18, 2006.

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) and MPEP 512, 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.

MPEP Section 512 states, in pertinent part:

I. PROCEDURE BY APPLICANT

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) **When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable. Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.** If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet

and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to **MPEP § 503** relative to the use of postcards as receipts.

It is noted that the certificate of fax transmission was submitted on a separate page and failed to include the appropriate required identification; i.e., the application number, and type of paper being filed; i.e., amendment, response to Office action of April 20, 2006, etc. Therefore, absent the proper identifying data, the certification is not considered to be acceptable since it cannot be unequivocally connected to the filing of the reply to the non-final Office action of April 20, 2006.

For the reasons stated above, the showing provided is not considered sufficient to establish that the holding of abandonment of this application was in error. Accordingly, the holding of abandonment stands.

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
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

LEONG C. LEI
PMB# 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Min-Heng Chiang	:	
Application No. 11/358,095	:	DECISION ON PETITION
Filed: February 22, 2006	:	
Attorney Docket No. FP11532	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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 April 20, 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 July 21, 2006. A Notice of Abandonment was mailed on October 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of April 20, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1744 for appropriate action in the normal course of business on the reply received with the petition filed on November 10, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Mailed: 9-13-06

In re application of :
Kato, et al. : DECISION ON
Serial No. 11/358,102 : PETITION
Filed: February 22, 2006 :
For: LITHIUM ION SECONDARY BATTERY AND CHARGING METHOD THEREFOR, AND CHARGE OR CHARGE/DISCHARGE CONTROL SYSTEM FOR LITHIUM ION SECONDARY BATTERY :

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on February 22, 2006. An application may be granted special status provided that applicant complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

DECISION

Applicant has complied with the conditions set forth above.

The Petition is **Granted**.

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDermott Will & Emery
600 13th Street, N.W.
Washington, DC 20005

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Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of

Zhong Stella Wu
Application No. 11/358,128
Filed: February 22, 2006
Attorney Docket No. 146712003412

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 March 30, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that neither Peter J. Davis nor Sohyun Chung has power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

It is further noted that customer number 25227 was never appointed as power of attorney in this application.

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 Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Raj S. Dave
Darby & Darby PC
1500 K Street NW
Suite 250
Washington, DC 20005-1714

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

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Young-Woo Song	: DECISION ON REQUEST FOR
Patent Number	: 7659662	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: 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.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/17/2010

Applicant : Young-Woo Song
Patent Number : 7659662
Issue Date : 02/09/2010
Application No: 11/358,132
Filed : 02/22/2006

: 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 **482** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/358,135	02/22/2006	Itsuo Hidaka	05USFP1231-T.T.	5978

21254 7590 05/14/2010

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER	
MCMAHON, DANIEL F	

ART UNIT	PAPER NUMBER
2117	

MAIL DATE	DELIVERY MODE
05/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Farhad Shir, Ph.D.
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

In re U.S. Patent of:	)	
Itsuo HIDAKA et al.	)	
Application No. 11/358,135	)	**NOTIFICATION OF PRIOR ART**
Filed: February 22, 2006	)	**CITATION UNDER 37 C.F.R. § 1.501**
U.S. Patent No. 7,712,001	)	
Issued: May 04, 2010	)	

A citation of prior art under 37 C.F.R. § 1.501 has been filed by the patent owner on April 22, 2010 in the above-identified patent, entitled "SEMICONDUCTOR INTEGRATED CIRCUIT AND METHOD OF TESTING SEMICONDUCTOR INTEGRATED CIRCUIT".

Any inquiry concerning this decision should be directed to Brian L. Johnson whose telephone number is (571) 272-3595.

Nestor Ramirez Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NR:blj

UNITED STATES PATENT AND TRADEMARK OFFICE

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Manelii Denison & Selter PLLC
2000 M Street
7th Floor
Washington DC, DC 20036

Mail Date: 04/21/2010

Applicant	: Joseph T. McFadden	: DECISION ON REQUEST FOR
Patent Number	: 7628561	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **635** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard A. Clark, et al.	:	
Application No. 11/358,164	:	DECISION GRANTING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3573B-000009/CPC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 13, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

A decision on the petition filed under 37 C.F.R. 1.78(a)(3) and 1.78(a)(6) that was filed May 13, 2009 will be rendered shortly in a separate decision.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

[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.*

This application is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLOOMFIELD HILLS MI 48303

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Richard A. CLARK et al. :
Application No. 11/358,164 : DECISION ON PETITIONS
Filed: February 21, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 3573B-000009/CPC :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petition Examiner
Office of Petitions

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard A. CLARK et al.	:	
Application No. 11/358,164	:	DECISION DISMISSING PETITIONS
Filed: February 21, 2006	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. **3573B-000009/CPC**	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 07, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate

paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

The amendment to Parent Application No. 09/397,817 is not claiming priority to the correct provisional application. A review of the office records indicates that the priority claim to U.S. Application No. 60/100,976 is incorrect.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By fax: (571) 273-8300
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Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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BLOOMFIELD HILLS MI 48303

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Richard A. CLARK et al. :
Application No. 11/358,164 : DECISION ON PETITIONS
Filed: February 21, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 3573B-000009/CPC :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 09, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231. 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 2835 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Thurman K. Page
Paralegal Specialist
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Richard A. Clark	: DECISION ON REQUEST FOR
Patent Number	: 7612999	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 05/18/2010

Applicant	: Richard A. Clark	: NOTICE CONCERNING IMPROPER
Patent Number	: 7612999	: CALCULATION OF PATENT TERM
Issue Date	: 11/03/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 11/358,164	: IMPROPERLY MEASURING REDUCTION
Filed	: 02/21/2006	: 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 **30** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/358,166	02/21/2006	William C. Andrick	VTXZ 2 00008	7528

7590 02/12/2008

Jay F. Moldovanyi, Esq.
Fay, Sharpe, Fagan, Minnich, & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579

EXAMINER	
RIPLEY, JAY R	
ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
02/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	11/358,166	ANDRICK ET AL.	
	Examiner	Art Unit	
	Ripley, Jay	3679	

-- 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 K. 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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Technology Center 2100

Arent Fox PLLC
1050 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036-5339

In re Application of: Junichi NIITSUMA
Application No. 11/358,207
Filed: February 22, 2006
For: PROCESSOR AND PROCESSING METHOD

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed January 3, 2007 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 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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Hiroshi Furuta	: DECISION ON REQUEST FOR
Patent Number	: 7660085	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,226	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **545** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Armstrong Teasdale LLP (12553 - 1000)
Patrick W. Rasche
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 05/03/2010

Applicant	: Jiang Hsieh	: DECISION ON REQUEST FOR
Patent Number	: 7653230	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/358,242	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: 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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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Christopher Scott Dickens	: DECISION ON REQUEST FOR
Patent Number	: 7574592	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **452** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Hiroshi Hayakawa :
Application No. 11/358,244 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 576/31 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 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 RCE/amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed July 21, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2878 for appropriate action by the Examiner in the normal course of business on the reply received May 5, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET NW
FOURTEENTH FLOOR
ATLANTA, GA 30309-3488

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of :

NOBLE, Paul E. et al. :
Application No. 11/358,256 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. **148587.00300** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 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 of record who are associated with customer No. 25207. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PAUL E. NOBLE**
2195 EAGLE TRACE
CUMMING, GA 30040

cc: **LAURENCE P. COLTON**
SMITH GAMBRELL & RUSSELL
1230 PEACHTREE STREET, NW
ATLANTA, GEORGIA 30309

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LAW OFFICE OF JOHN LIGON
213 E. HIGHLAND AVENUE
P.O. BOX 281
ATLANTIC HIGHLANDS, NJ 07716

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SEP 15 2008

In re Application of :
Abhishek DUGGAL :
Application No. 11/358,260 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. Duggal 3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 02, 2007, which set a shortened statutory period for reply of three (3) months. 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 February 05, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of August 02, 2007 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2816 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **IAN M. HUGHES**
P.O. BOX 1027
PAOLI, PA 19301

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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Bernhard Muellinger	: DECISION ON REQUEST FOR
Patent Number	: 7647928	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,263	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

JAN 0 3 2007

In re Application of: McCOWEN Serial No.: 11/358,264 Filed: February 21, 2006 Title: ENERGY COLLECTION	:	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on September 25, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

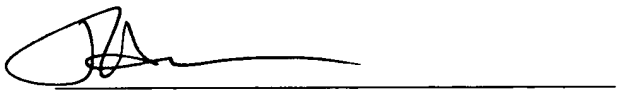
The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before

the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.



J. Harrison
Special Program Examiner
Technology Center 3700

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United States Patent and Trademark Office
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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 06/01/2010

Applicant	: Mudasir Ahmad	: DECISION ON REQUEST FOR
Patent Number	: 7621190	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/358,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Haichen Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7669021	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI, OH 45215

Mail Date: 04/20/2010

Applicant	: Bangalore A. Nagaraj	: DECISION ON REQUEST FOR
Patent Number	: 7597934	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/358,348	02/21/2006	3761	2200	08100.0026-00000	2	44	3

CONFIRMATION NO. 4912

CORRECTED FILING RECEIPT

OC000000018555714

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 04/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James D. Talton, Residence Not Provided;
James F. Kirk, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/593,875 02/21/2005

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/358,348

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Inverted cannula for use in reconstituting dry material in syringes

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).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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THE LAW OFFICES OF STEVEN MCHUGH, LLC
46 WASHINGTON STREET
MIDDLETOWN CT 06457

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FEB 14 2008

In re Application of :
Moore et al. :
Application Number: 11/358363 : DECISION ON PETITION
Filing Date: 02/21/2006 :
Attorney Docket Number: EPC-2439 :

This is a decision on the petition filed on September 14, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on February 25, 2007, for failure to timely reply to the non-final Office action mailed on November 24, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 6, 2007.

Receipt of the amendment filed in response to the non-final Office action is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address listed in the petition.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is being referred to Technology Center Art Unit 3637 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

CHARLES G. NESSLER
BOX H
CHESTER CT 06412

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OCT 09 2009

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
Two International Place
Boston, MA 02110

In re Application of	:	
Richard J. Cohen	:	
Application No. 11/358,379	:	DECISION ON PETITION
Filed: February 21, 2006	:	TO WITHDRAW
Attorney Docket No. 0492611-0653 (MIT 11297)	:	FROM RECORD
	:	

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, 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 Sam Pasternack 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 Richard J. Cohen at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

T. Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Richard J. Cohen**
Harvard-MIT Division of Health & Technology
45 Carleton Street, Rm. E25-335A
Cambridge, MA 02142

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/358,379	02/21/2006	Richard J. Cohen	0492611-0653 (MIT 11297)

CONFIRMATION NO. 7742

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000038209698

Date Mailed: 10/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 05/20/2010

Applicant	: Richard J. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7666144	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/358,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: 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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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Sharma, Quick, and Ludwig :
Application No. 11/358,382 : DECISION ACCORDING STATUS
Filed: 21 February, 2006 : UNDER 37 CFR 1.47(a)
Atty Docket No. ST8763US :

This is in response to the petition filed under 37 CFR 1.47(a) on 21 February, 2006.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Technology Center for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DRW Mar-06

Pramod K. Sharma
34200 Ridge Road, Suite 610
Willoughby Hills OH 44094

COPY MAILED

MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of
Sharma et al.
Application No. 11/358,382
Filed: 21 February, 2006
For: STERILE SINGLE USE SAMPLING DEVICE

Dear Mr. Sharma:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :

UKRAINCZYK, Igor et al. :
Application No. 11/358,388 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. **1546.003US2** : FROM RECORD
:

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 **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 F. Brennan on behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed August 09, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **IGOR UKRAINCZYK**
69 OLIVE CT.
MOUNTAIN VIEW, CA 94041

cc: **DOREEN J. GRIDLEY**
ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS, IN 46282-0200

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Masafumi Hayakawa	: DECISION ON REQUEST FOR
Patent Number	: 7646499	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,403	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **996** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Kao-Yi Chiu	: DECISION ON REQUEST FOR
Patent Number	: 7626637	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,404	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/358,410	02/22/2006	Nagataka Tanaka	286623US2S	5712

22850 7590 05/01/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HARRINGTON, ALICIA M	
ART UNIT	PAPER NUMBER
2873	

NOTIFICATION DATE	DELIVERY MODE
05/01/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
TANAKA, NAGATAKA, ET AL. :
Serial No.: 11/358,410 :
Filed: February 22, 2006 :
For: SOLID-STATE IMAGING DEVICE EQUIPPED WITH LIGHT CONVERGING MICRO-LENSES AND CAMERA APPARATUS USING THE SAME :

DECISION ON PETITION
UNDER 37 CFR 1.181

The request filed on January 10, 2008, to require the examiner to consider all of the references cited in the Information Disclosure Statement filed on November 12, 2007 is treated as a Petition under 37 CFR 1.181.

The petition is **GRANTED**.

This application is being forwarded to the examiner for appropriate action consistent with this decision.

Ricky Mack
SPE, Art Unit 2873
April 28, 2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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OFFICE OF PETITIONS

In re Application of	:	
Madhusudan Raghavan et al	:	
Application No. 11/358,422	:	DECISION GRANTING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GP-307588-RD-KAM	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 19, 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 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed December 20, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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THERESA M. CLEMENT
130 TURTLE CREEK CIRCLE
OLDSMAR, FL 34677

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Theresa Maureen Clement
Application No. 11/358,426
Filed: February 21, 2006
Attorney Docket No. None

ON PETITION

This is a decision in response to the petition, filed May 5, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 16, 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) was obtained. Accordingly, the application became abandoned on January 17, 2007. A Notice of Abandonment was mailed on April 23, 2007. On May 5, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3612 for appropriate action by the Examiner in the normal course of business on the response filed May 5, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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GENE ZURLO
4 NICKLAUS LANE
KIAWAH ISLAND, SC 29455

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OFFICE OF PETITIONS

In re Application of :
Gene Zurlo, et al. :
Application No. 11/358,431 :
Filed: February 21, 2006 :
Attorney Docket No. ALL002CP2 :

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 August 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant Allan L. Louderback's birth certificate. 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 1644 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAY 22 2009

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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of :
PRICE, Brian A. et al. :
Application No. 11/358,449 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. **4037.01US01** : FROM RECORD
:

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 13, 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 Bradley J. Thorson on behalf of all attorneys of record who are associated with customer No. 24113. 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 Joe Smith at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BRIAN A. PRICE**
3015 DARCY DRIVE NORTHEAST
ROCHESTER, MINNESOTA, 55906

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OSHA LIANG LLP
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of :
Koji Asami :
Application No. 11/358,452 : ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 02008/257002 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 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 non-final Office action mailed March 12, 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 June 13, 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 2819 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/352,462	02/10/2006	Pradeep Kumar Chatterjee	CHPK003CES	3116

51248 7590 05/20/2008

CHARLES EDISON SMITH
1512 S. ALSTON AVE.
DURHAM, NC 27707

EXAMINER	
JOIKE, MICHELE K	

ART UNIT	PAPER NUMBER
1636	

MAIL DATE	DELIVERY MODE
05/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Masashi Inoue
Application No. 11/358,462
Filed: February 21, 2006
For: VERIFICATION OPERATION SUPPORTING SYSTEM AND METHOD OF THE SAME

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 May 9, 2008 to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

A. Item 2 above. Specifically,

1) Applicant is required to **submit a copy of the allowable/patentable claim(s)** from **the JPO application(s)** ***to which priority under 35 U.S.C. 119(a) has been validly claimed*** (refer items 1 and 2 above) along with an English translation thereof and **a statement that the English translation is accurate.**

The petition equates claims 21-30 of the instant application to patentable claims 1-10 of the corresponding Japanese application. The petition filed 5/9/08 also contains translation of reasons for refusal, in which claims 1-14 were rejected. Translation Certificate filed with the petition states that "the following.... is a true and correct translation" of Japanese Patent Application 2005-054262b(JP920040227). It is not clear what part of the document the translator is referring to by "Japanese Patent Application 2005-054262b(JP920040227)" – is it the claims? Is it the spec? Is it the reasons for refusal? Is the allowed Japanese application? Are the claims being submitted with the petition are the same claims that were rejected by JPO as indicated by the translated Reasons for Refusal Document, in which all claims 1-14 were rejected. It is noted that the Japanese Claims document lacks any header or footer to identify the document with an application number. Clarification is required.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/358,462	02/21/2006	Masashi Inoue	JP920040227US1	6013

27431 7590 06/19/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
AN, MENG AI T	

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
06/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Masashi Inoue
Application No. 11/358,462
Filed: February 21, 2006
For: VERIFICATION OPERATION SUPPORTING SYSTEM AND METHOD OF THE SAME

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 May 9, 2008 to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

A. Item 2 above. Specifically,

1) Applicant is required to **submit a copy of the allowable/patentable claim(s)** from **the JPO application(s)** ***to which priority under 35 U.S.C. 119(a) has been validly claimed*** (refer items 1 and 2 above) along with an English translation thereof and **a statement that the English translation is accurate.**

The petition equates claims 21-30 of the instant application to patentable claims 1-10 of the corresponding Japanese application. The petition filed 5/9/08 also contains translation of reasons for refusal, in which claims 1-14 were rejected. Translation Certificate filed with the petition states that "the following.... is a true and correct translation" of Japanese Patent Application 2005-054262b(JP920040227). It is not clear what part of the document the translator is referring to by "Japanese Patent Application 2005-054262b(JP920040227)" – is it the claims? Is it the spec? Is it the reasons for refusal? Is the allowed Japanese application? Are the claims being submitted with the petition are the same claims that were rejected by JPO as indicated by the translated Reasons for Refusal Document, in which all claims 1-14 were rejected. It is noted that the Japanese Claims document lacks any header or footer to identify the document with an application number. Clarification is required.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/358,462	02/21/2006	Masashi Inoue	JP920040227US1	6013

27431 7590 07/30/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
AN, MENG AI T	

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
07/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
P.O. Box 1450
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JUL 3 0 2008
TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Masashi Inoue
Application No. 11/358,462
Filed: February 21, 2006
For: VERIFICATION OPERATION SUPPORTING SYSTEM AND METHOD OF THE SAME

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 May 9, 2008, and the request for reconsideration of adverse decision filed June 19, 2008, to make the above-identified application special.

The petition is **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of 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 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
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT NY 13760

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FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
INOUE, MASASHI :
Application No. 11/358,462 :
Filed: 02/21/2006 :
Attorney Docket No. JP920040227US1 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on April 9, 2009, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on July 10, 2009. A Notice of Abandonment was mailed on August 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THE LUTHER LAW FIRM, PLC
10575 N 114TH STREET
SUITE 103
SCOTTSDALE AZ 85259

In re Application of

Jifan Hu, et al.

Application No. 11/358,465

Filed: February 21, 2006

Attorney Docket No. **GMR-002ORD**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), May 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed October 16, 2009, which set a shortened statutory period for reply of three-months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on January 20, 2010. A Notice of Abandonment was mailed May 20, 2010.

The Request for Continued Examination filed May 24, 2 010, is noted.

The application file is being forwarded to Technology Center 1600, GAU1651 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Christopher Scott Dickens	: DECISION ON REQUEST FOR
Patent Number	: 7631038	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Micosoft Corporation
Attn; Patent Group Docketing Department
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Christopher Scott Dickens	: DECISION ON REQUEST FOR
Patent Number	: 7631175	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JENNIFER L. BALES
MOUNTAIN VIEW PLAZA
1520 EUCLID CIRCLE
LAFAYETTE CO 80026-1250

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of
Christopher A. Stone et al.
Application No. 11/358,491
Filed: February 21, 2006
Attorney Docket No. **S08.101**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 22, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/655,091, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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)(iii). 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.

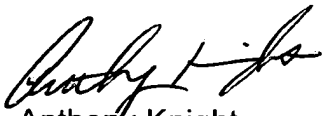
The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

A 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3618 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.



Anthony Knight
Supervisor
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
11/358,491	02/21/2006	3618	565	S08.101	19	3

CONFIRMATION NO. 7946

CORRECTED FILING RECEIPT

26344
JENNIFER L. BALES
MOUNTAIN VIEW PLAZA
1520 EUCLID CIRCLE
LAFAYETTE, CO 80026-1250

OC00000034795466

Date Mailed: 03/02/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Christopher A. Stone, Lafayette, CO;
Robert J. Schaefer, Boulder, CO;

Power of Attorney: The patent practitioners associated with Customer Number 26344

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/655,091 02/22/2005

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/358,491**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Snowboards and the like having integrated dynamic light displays related to snowboard motion

Preliminary Class

280

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Gregory M. Luck
Thompson & Knight, LLP
Suite 3400
333 Clay Street
Houston, TX 77002

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JAN 08 2008

OFFICE OF PETITIONS

In re Application of :
E. Michael Coffey et al. :
Application No. 11/358,502 : DECISION ON PETITION
Filed: February 20, 2006 : TO WITHDRAW
Attorney Docket No. 008280.03 : FROM RECORD
:

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 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the applicant of the patent application on October 2, 2007 has revoked the power of attorney to Thompson & Knight, LLP. 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: **Neil R. Davie**
PO Box 3006
Avon, CO 81620

UNITED STATES PATENT AND TRADEMARK OFFICE

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Neil R. Davie
1429 Wedgwood Road
Golden CO 80403

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of
Coffey, et al.
Application No. 11/358,502
Filed: February 20, 2006
Attorney Docket No. 008280.03

DECISION DISMISSING PETITION UNDER 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and the constructive petition under 37 CFR 1.78(a)(6), filed November 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed informal amendment.

The petition filed November 26, 2007 is being treated as a constructive petition under 37 CFR 1.78(a)(6) because the reference to the provisional application found in the original specification is not acceptable because the provisional application was filed on August 10, 2001 and applicants did not claim benefit *properly* to the nonprovisional application that the provisional application depended on, Application No. 10/191,155. The provisional application at issue cannot directly depend on the present application because the present application was filed on February 20, 2006. In other words, an intermediate nonprovisional application had to be filed within 1 year of the filing date of the provisional application and applicants had to properly claim benefit to that intermediate nonprovisional application in order for the benefit claim to the provisional application to be acceptable. Applicants did not meet this requirement; thus a petition under 37 CFR 1.78(a)(6) is required.

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).

With respect to (1) above the amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i).

As a preliminary matter, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In addition, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The informal amendment embedded in the specification itself fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).

On the issue of the statement of unintentional delay, 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wildman, Harrold, Allen & Dixon, LLP
And the Boeing Company
225 W. Wacker Drive
Chicago, IL 60606

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AUG 01 2008

In re Application of :
Max U. Kismarton et al. :
Application No. 11/358,503 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. B4331.0014 : FROM RECORD
:

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 1, 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 attorneys of record were not appointed by a customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS SPINELLI
2 SIPALA COURT
EAST NORTHPORT NY 11731

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Jahangir S. RASTEGAR et al. :
Application No. 11/358,517 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. **10037Z** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 23, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) 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 October 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2834 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
Petitions Examiner
Office of Petitions

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

Mail Date: 04/21/2010

Applicant	: Tze-Ming Chan	: DECISION ON REQUEST FOR
Patent Number	: 7659275	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **522** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 04/21/2010

Applicant	: Joseph W. Cochran	: DECISION ON REQUEST FOR
Patent Number	: 7641878	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,575	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **711** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/12/07

Patent No. :7408163
Inventor(s) : Yaron Hefetzbert J.
Issued : 1/23/2007
Title : METHODS AND SYSTEMS FOR MEDICAL IMAGING
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [57] and claim 7 is printed in accordance with the record. There is no indication to delete or insert correction.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

The Small Patent Law Group
225 S. Meramec Ste. 725
St. Louis, MO 63105

HR/CBN

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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

JUN 0 7 2010

OFFICE OF PETITIONS

In re Application of :
Lawrence A. BLAUSTEIN et al. :
Application No. 11/358,582 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. **8777CCC** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 05, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 05, 2009. Accordingly, the date of abandonment of this application is January 06, 2010.

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. Accordingly, the Issue Fee and the Publication Fee are 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 the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/12/07

Patent No. :7408163
Inventor(s) : Yaron Hefetzbert J.
Issued : 1/23/2007
Title : METHODS AND SYSTEMS FOR MEDICAL IMAGING
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [57] and claim 7 is printed in accordance with the record. There is no indication to delete or insert correction.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

The Small Patent Law Group
225 S. Meramec Ste. 725
St. Louis, MO 63105

HR/CBN

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OFFICE OF PETITIONS

NEIL JETTER
DARBY & DARBY
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-077

In re Application of :

Noel B. DEQUINA, et al :
Application No. 11/358,609 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. 7302-62 : 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 November 15, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Neil R. Jetter does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the first copied address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

cc: FOGG & POWERS, LLC
10 SOUTH FIFTH STREET, SUITE 1000
MINNEAPOLIS, MN 55402

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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

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In re Application of

Noel B. Dequina :

Application No. 11/358,609

: DECISION ON PETITION

Filed: February 21, 2006

:

Attorney Docket No. 125.188US01

This is a decision on the petition under 37 CFR 1.137(b), May 27, 2008, 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 November 14, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 15, 2008.

The amendment filed May 27, 2008, is noted.

The application is being forwarded to Technology Center 2800, GAU 2816 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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May 14, 2009

Matthew A. Sonner
2530 Sunnyside School Rd
Fayetteville NC 28312

In re Application of: SONNER, MATTHEW AARON
Serial No.: 11/358614
Filed: 02/22/2006
Title: BALLISTIC ELBOW AND KNEE GUARDS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 6, 2009 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(c)(2)III.

The petition to make the application special is **DENIED**.

Regular examination has already begun; a final rejection was mailed on February 25, 2009, and an Advisory Action was mailed on May 16, 2008. Accordingly, no advantages or limitations of accelerated examination are accorded to the file, and the application is no longer eligible for the accelerated examination program.

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Ehud Gartenberg, Special Program Examiner, at (571) 272-4828.

Ehud Gartenberg

Ehud Gartenberg, Special Program Examiner
Technology Center 3700

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OFFICE OF PETITIONS

MORRISS OBRYANT COMPAGNI, P.C.
734 East 200 South
Salt Lake City, UT 84102

In re Application of	:	
Lynn Kenneth Packer	:	
Application No. 11/358,616	:	DECISION ON PETITION
Filed: February 21, 2006	:	TO WITHDRAW
Attorney Docket No. 3609.LPAC.PT	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 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 Paul C. Oestreich 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 Lynn Kenneth Packer at the address indicated below.

There is an outstanding Office action mailed September 14, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Lynn Kenneth Packer**
1088 Fairway Place
North Salt Lake, UT 84054-3373

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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
11/358,616	02/21/2006	Lynn Kenneth Packer	3609.LPAC.PT

CONFIRMATION NO. 9910

POWER OF ATTORNEY NOTICE

26986
MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

Date Mailed: 12/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/14/2009.

- 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.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 23 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby :
Serial No.: 11/358,632 : PETITION DECISION
Filed: February 21, 2006 :
Attorney Docket No.: 1421-234

This is in response to the petition under 37 CFR § 1.59(b), filed February 28, 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 February 28, 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

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JUL 26 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/358,632	: PETITION DECISION
Filed: February 21, 2006	:
Attorney Docket No.: 1421-234	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 19, 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 February 28, 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, applicant's 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 Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 26 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/358,633	: PETITION DECISION
Filed: February 21, 2006	:
Attorney Docket No.: 1421-235	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 2, 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 February 28, 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, applicant's 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 Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 08 2007

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P.O. Box 1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby
Serial No.: 11/358,634
Filed: February 21, 2006
Attorney Docket No.: 1421-236

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 2, 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 May 2, 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

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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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SEP 17 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/358,634	: PETITION DECISION
Filed: February 21, 2006	:
Attorney Docket No.: 1421-236	:

This is in response to the petition under 37 CFR § 1.59(b), filed August 8, 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 May 2, 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.

Therefore, applicant's 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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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

OCT 18 2007

In re Application of :
William H. Eby :
Serial No.: 11/358,635 : PETITION DECISION
Filed: February 21, 2006 :
Attorney Docket No.: 1421-237 :

This is in response to the petitions under 37 CFR § 1.59(b), filed June 14, 2007 and August 29, 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 June 14, 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, applicant's 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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Takeshi Tonegawa	: DECISION ON REQUEST FOR
Patent Number	: 7586260	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,638	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **535** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO IL 60603

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SEP 18 2008

In re Application of

SPITTLE, Robert J. et al.
Application No. 11/358,643
Filed: February 21, 2006
Attorney Docket No. **05,117-A**

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 07, 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 Stephen Lesavich, PhD on behalf of all attorneys of record who are associated with customer No. 32097. 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 Robert J. Spittle at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed February 15, 2008.

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: **ROBERT J. SPITTLE**
7905 261ST AVENUE
SALEM, WISCONSIN 53168

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BROOKS, CAMERON & HUEBSCH , PLLC
1221 NICOLLET AVENUE, SUITE 500
MINNEAPOLIS, MN 55403

Mail Date: 05/04/2010

Applicant	: Aaron R. Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7608195	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/358,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **474** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.

Sherlon A. Nelson
6 Tanglewood Place East
Monroe Township NJ 08831

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DEC 11 2009

OFFICE OF PETITIONS

In re Application of :
Nelson et al. :
Application No. 11/358,678 : DECISION ON PETITION
Filed: February 21, 2006 : PURSUANT TO
Title: CLOTHES FASTENING : 37 C.F.R. § 1.137(B)
SYSTEM :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 29, 2009, to revive the above-identified application. A supplement to this petition was received on October 9, 2009.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 25, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on April 26, 2008. A Notice of Abandonment was mailed on May 20, 2008.

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;

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition, issue, and publication fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

It is noted that Petitioner has submitted $770 towards the issue fee, when the amount due was $755. If Petitioner wishes to have the $15 excess payment refunded, a request for a refund should be submitted to the Office of Finance.[4] A copy of this decision should accompany any such request.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

---

3 See Rule 1.137(d).
4 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 571-272-6400.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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AMERSHAM HEALTH, INC
IP DEPARRMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of	:	
Tolmachev et al.	:	
Application No. 11/358,681	:	DECISION ON PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PH0505	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 10/552,206.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which

includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The petition filed September 29, 2008 fails to state the relationship of Application No. 10/552,206 to the instant application.

Further, the priority claim as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the priority claim is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an amendment[1] stating the relationship of the prior-filed application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer 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 the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

6/26/09

In re Application of:
BALTZ, KYLE L. et al
Serial No.: 11/358,695
Filed: February 21, 2006
Docket: N/A
Title: STORAGE CONTAINER WITH HINGED LID

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a response to the petition filed on June 8, 2009 by which petitioner requests supervisory review of the restriction requirement promulgated on May 6, 2009. The petition is considered pursuant to 37 CF 1.144 and 37 CFR 1.181 and no fee is required.

The petition is **GRANTED**.

The following relevant facts include:

1. The examiner issued a Non-Final Rejection on September 26, 2007 which rejected all pending claims 1-28 under various applicable sections of 35 USC 112, 102 and 103.

2. The applicant filed an amendment and request for reconsideration on December 26, 2007 to which the examiner responded with a Final Rejection on February 28, 2008. The applicant added new claims 29-36. In the Final Rejection, the examiner again rejected all pending claims 1-36 under various applicable sections of 35 USC 112, 102 and 103.

3. In response, the applicant filed an amendment after Final Rejection on April 28, 2008 and submitted amended claims 19 and 30. The applicant also submitted remarks regarding the rejection of other claims. In an advisory action on May 16, 2008, the examiner stated that the applicant's arguments were not persuasive and maintained the rejection of the claims. The examiner also entered the amendment after final for appeal purposes.

4. On October 24, 2008, the applicant filed an appeal brief. The brief appeals the rejection of claims 7, 10-28, and 30-36.

5. The examiner responded to the appeal brief by reopening prosecution with new grounds of rejection and issued a new non-final rejection on December 3, 2008. In this rejection, the examiner rejected all pending claims 1-36 under various applicable sections of 35 USC 112, 102 and 103.

6. In response to the re-opening prosecution of the application, on March 3, 2009, the applicant filed an amendment and request for reconsideration. The applicant amended claims 1, 9-17, 27, 29-33, 35 and added 14 new dependent claims 37-50.

7. In response to the amendment and request for reconsideration for the first time on May 6, 2009, the examiner promulgated a restriction requirement. The examiner stated in the restriction requirement that the applicant must elect one of the following inventions under 35 USC 121, namely: Claims 1-9, 29-30 and 37-41 of Group I, claims 10-13, 31-32, and 46-47 of Group II, claims 14-20 and 42-25 of Group III, claims 21-28, 36 and 48 of Group IV and claims 33-35 and 49-50 of Group V. In addition, the examiner continued to require further election of species requirement among five disclosed and claimed species. The species are Species I drawn to a container with hinge members integrally formed on both the walls and the lids; Species II drawn to a container with lids having upper leaves and lower leaves with a lip protruding from a lower leaf in Figures 1-4; Species III drawn to a container with a lid having a lip between two hinge members in Figures 5-11, and Species IV drawn to a container with walls and lids, and hinges attached to walls and lids with security features to keep container closed, and Species V drawn to a container with walls and lids, and a document pocket located on the lid to retain a document in Figures 19-22.

8. On June 8, 2009, the applicant filed this petition to review and withdraw the restriction requirements.

Analysis and Discussion

In the instant application, the applicant does not traverse the rationale set forth by the examiner that the inventions are independent or distinct as claimed. However, even if the application includes inventions that are independent or distinct as claimed, the examiner must show that there is a serious burden if restriction is not required.

Although a restriction requirement could be made any time before final, the examiner rendered a first office action on all the claims which are presumed to be thoroughly searched in all the appropriate areas. In this case, there were at least three Office actions on the merits rendered prior to the last claim amendment of March 3, 2009. The examiner had ample opportunities to search and examine at least claims 1-36 presented prior to the restriction requirement of May 6, 2009. Further, even though the time for making a restriction requirement may be made at any time before final action, 37 CFR 1.42(a) sets forth that "before making a restriction requirement after the first office action

on the merits, the examiner will consider whether there will be a serious burden if restriction is not required," MPEP 811 [R-3]. Referring to the office action dated May 6, 2009, the examiner failed to set forth any indication of a serious burden if restriction of these claims is not made. Since no indication on the record was made of how a serious burden exists by having to examine all claims after three Office actions on the merits were rendered, the examiner has not met the requirements for making a restriction in this case.

Conclusion

For the reasons outlined above, the restriction requirement is not in accordance with proper office procedure. Therefore, the office action of May 6, 2009 is hereby withdrawn. The application is being forwarded to the supervisory patent examiner of Art Unit 3781 who will have the examiner promulgate an action on the merits of the presently pending claims consistent with this decision.

The petition is GRANTED.

Karen M. Young, Director
Technology Center 3700

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

Mail Date: 04/20/2010

Applicant	: Don H. Ware	: DECISION ON REQUEST FOR
Patent Number	: 7572852	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,704	: OF WYETH
Filed	: 02/21/2006	:
		:

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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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

Mail Date: 05/17/2010

Applicant : Don H. Ware
Patent Number : 7572852
Issue Date : 08/11/2009
Application No: 11/358,704
Filed : 02/21/2006

: 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 **791** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Mingjing Li	: DECISION ON REQUEST FOR
Patent Number	: 7657089	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: 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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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/20/2010

Applicant	: Guido Chiaretti	: DECISION ON REQUEST FOR
Patent Number	: 7580592	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,737	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **544** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Yen-Fu Chen	: DECISION ON REQUEST FOR
Patent Number	: 7661067	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: 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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JOHN S. BEULICK (17851)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 06/17/2010

Applicant	: Keith Cletus Belsom	: DECISION ON REQUEST FOR
Patent Number	: 7631504	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/358,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **612** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOE E. POSKIN
PRIER PRODUCTIONS INC.
4515 EAST 139TH STREET
GRANDVIEW MO 64030

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DEC 09 2008

In re Application of	:	
Scott BRADY et al.	:	
Application No. 11/358,780	:	DECISION ON PETITION
Filed: February 21, 2006	:	
Attorney Docket No. MO06003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 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 October 03, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 03, 2008. Accordingly, the date of abandonment of this application is October 04, 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 entire issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

It is noted that the Certificate of Mailing in the petition was not signed and dated.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Mark Manley
UCM Dockery 102
Warrensburg, MO 64093

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Yoshihiro Otagiri et al :
Application No. 11/358,797 :
Filed: February 20, 2006 :
Attorney Docket No. 9319S-000434/DVB :

ON PETITION

This is a decision on the petition, filed November 16, 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 November 2, 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 2873 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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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON, TX 77253-3267

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JUN 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
TAN, Teck T. et al.	:	
Application No. 11/358,801	:	DECISION ON PETITION
Filed: February 21, 2006	:	TO WITHDRAW
Attorney Docket No. **26920-US-693**	:	FROM RECORD
	:	

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 08, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to CONLEY ROSE, P.C. has been revoked by the assignee of the patent application on April 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE**
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G
BLDG. 321-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

Mail Date: 04/20/2010

Applicant	: Hariklia Deligianni	: DECISION ON REQUEST FOR
Patent Number	: 7581314	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 2 6 2008

DENNIS J. SOLOMON
PO BOX 289
YARMOUTH PORT MA 02675-0289

In re Application of :
Solomon :
Application No. 11/358,847 : DECISION
Filed: 18 February, 2006 :
Attorney Docket No. (None) :

This is a decision on the petitions filed on 16 July, 2007, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may file a petition under 37 C.F.R. §1.137(b) to revive an application abandoned due to unintentional delay. (Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 14 March, 2006, with reply due absent extension of time on or before 14 May, 2006.

The application went abandoned by operation of law after midnight 14 May, 2006.

The Office mailed a Notice of Abandonment on 26 June, 2007.

On 16 July, 2007, Petitioner filed the instant petition and averred non-receipt, and provided therewith a document that Petitioner identifies as a "'task list' for [his] performance display related patents—the 'docket report' …. ."

The guidance in the Commentary set forth at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c) sets forth the showing requirements for overcoming the presumptions herein.[1]

[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2 shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

That guidance indicates that Petitioner must not only aver non-receipt, but also must expressly state a "search" of the file for the instant application, which search fails to reveal the Office action in question, with a copy of the docket record for the individual application provided in support of that search statement; and, must expressly state that a search of the Petitioner's calendar for the due date of the reply (as indicated above), supported by a copy of Petitioner's calendar for that due date—which would demonstrate that the reply to the Office action had not been filed to another application by mistake.

(*See*: MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternatively "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner failed to make the showing required.

---

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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.

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

DENNIS J. SOLOMON
PO BOX 289
YARMOUTH PORT MA 02675-0289

COPY MAILED

DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Solomon :
Application No. 11/358,847 : DECISION
Filed: 18 February, 2006 :
Attorney Docket No. (None) :

This is a decision on the petitions filed on 28 October, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 14 March, 2006, with reply due absent extension of time on or before 14 May, 2006.

The application went abandoned by operation of law after midnight 14 May, 2006.

The Office mailed a Notice of Abandonment on 26 June, 2007.

On 16 July, 2007, Petitioner filed a petition and averred non-receipt, and provided therewith a document that Petitioner identifies as a "'task list' for [his] performance display related patents—the 'docket report' ...." Because Petitioner failed to make the showing required,[1] the petition was dismissed on 26 August, 2008.

On 28 October, 2008, Petitioner filed the instant petition. There does not appear to be accompanying the petition a copy of the docket sheet for this application reflecting chronologically all transactions (i.e., submissions by Petitioner to the Office (e.g., application filed, responses to the Office) and actions/notices mailed by the Office to Petitioner); nor does there appear to be a copy of Petitioner's due-date calendar for the due date of the response herein (14 May, 2006).

Moreover, Petitioner appears not to have moved stepwise through the Commentary at MPEP §711.03(c)(I) to ensure compliance with its requirements.

Thus, Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part:

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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[1] See: the Commentary set forth at MPEP §711.03(c)(I), see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c .

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2] (Emphasis supplied)

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

[2] *See*: MPEP §711.03(c) (I)(A).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

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.

PTO/SB/64 (11-08)
Approved for use through 12/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS J. SOLOMON
PO BOX 289
YARMOUTH PORT MA 02675-0289

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Solomon :
Application No. 11/358,847 : DECISION
Filed: 18 February, 2006 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 2 February, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the

regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

This is the third time the instant petition is being dismissed. Each time the Office has directed Petitioner to the guidance set forth in the Commentary at MPEP §711.03(c)(I) in order that Petitioner might satisfy the showings required, as to statements and documents. The documents may be paper systems, and need not be sophisticated computerized programs—however, a docket sheet or file jacket cover evidencing the chronological listing of papers submitted and papers received for the instant application is required, as is the due-date calendar/docket for Petitioner's office. Moreover, the narrative **must** satisfy (and with particularity) the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability.

Petitioner is cautioned that Petitioner's continued failure to:

- **satisfy the requirements pursuant to 37 C.F.R. §1.181 and consistent with the guidance in the Commentary at MPEP §711.03(c)(I); or**

- **promptly and properly file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) and averring unintentional delay**

may be considered thereafter *indicia* of intentional delay.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 14 March, 2006, with reply due absent extension of time on or before 14 May, 2006.

The application went abandoned by operation of law after midnight 14 May, 2006.

The Office mailed a Notice of Abandonment on 26 June, 2007.

On 16 July, 2007, Petitioner filed a petition and averred non-receipt, and provided therewith a document that Petitioner identifies as a "'task list' for [his] performance display related patents—the 'docket report' …. ." Because Petitioner failed to make the showing required,[1] the petition was dismissed on 26 August, 2008.

On 28 October, 2008, Petitioner filed a petition. There did not appear to be accompanying the petition a copy of the docket sheet for this application reflecting chronologically all transactions

[1] See: the Commentary set forth at MPEP §711.03(c)(I), see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c .

(i.e., submissions by Petitioner to the Office (e.g., application filed, responses to the Office) and actions/notices mailed by the Office to Petitioner); an accompanying document appeared to be a copy of Petitioner's due-date calendar for the due date of the response herein (14 May, 2006). However, Petitioner also appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I) to ensure compliance with its narrative/statement requirements as well as those regarding documentation. Because Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part the petition was dismissed on 1 December, 2008.

Petitioner filed a petition on 2 February, 2009, and once again failed to:

- provide a docket sheet/file jacket cover with the chronological listing of transactions in the instant application (discussed above); and

- make the required narrative statements (set forth above and again below).

Thus, for the third time Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part:

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2] (Emphasis supplied)

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[2] *See*: MPEP §711.03(c) (I)(A).

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

On 10 March, 2009, the Office placed calls to Petitioner at the telephone number listed on the petition in an effort to discuss the matter with him, however, there was no answer at the number and no service/recording system appeared available to take a phone message.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and

- those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] 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.))

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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[6] 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).

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS J. SOLOMON
PO BOX 289
YARMOUTH PORT MA 02675-0289

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Solomon :
Application No. 11/358,847 : DECISION
Filed: 18 February, 2006 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 13 May, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Petitioner now is cautioned that with this decision the petition pursuant to 37 C.F.R. §1.181 and considered in the context of the in the guidance in the Commentary at MPEP §711.03(c)(I) has been considered by the Office on four separate occasions. Petitioner repeatedly has failed to provide the documents and the narrative/statement required by the guidance. Further refusal to do so OR present a petition pursuant to 37 C.F.R. §1.137(b) may be found to be indicia of intentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover ***and due date calendar/docket****. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)*

This is the fourth time the instant petition is being dismissed. Each time the Office has directed Petitioner to the guidance set forth in the Commentary at MPEP §711.03(c)(I) in order that Petitioner might satisfy the showings required, as to statements and documents. The documents may be paper systems, and need not be sophisticated computerized programs—however, a docket sheet or file jacket cover evidencing the chronological listing of papers submitted and papers received for the instant application is required, as is the due-date calendar/docket for Petitioner's office. Moreover, the narrative **must** satisfy (and with particularity) the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability.

Petitioner is cautioned that Petitioner's continued failure to:

- **satisfy the requirements pursuant to 37 C.F.R. §1.181 and consistent with the guidance in the Commentary at MPEP §711.03(c)(I); or**

- **promptly and properly file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) and averring unintentional delay**

may be considered thereafter *indicia* of intentional delay.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (copy enclosed) mailed on 14 March, 2006, with reply due absent extension of time on or before 14 May, 2006.

The application went abandoned by operation of law after midnight 14 May, 2006.

The Office mailed a Notice of Abandonment on 26 June, 2007.

On 16 July, 2007, Petitioner filed a petition and averred non-receipt, and provided therewith a document that Petitioner identifies as a "'task list' for [his] performance display related patents—the 'docket report' …. ." Because Petitioner failed to make the showing required,[1] the petition was dismissed on 26 August, 2008.

On 28 October, 2008, Petitioner filed a petition. There did not appear to be accompanying the petition a copy of the docket sheet for this application reflecting chronologically all transactions (i.e., submissions by Petitioner to the Office (e.g., application filed, responses to the Office) and actions/notices mailed by the Office to Petitioner); an accompanying document appeared to be a copy of Petitioner's due-date calendar for the due date of the response herein (14 May, 2006). However, Petitioner also appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I) to ensure compliance with its narrative/statement requirements as well as those regarding documentation. Because Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part the petition was dismissed on 1 December, 2008.

Petitioner filed a petition on 2 February, 2009, and once again failed to:

- provide a docket sheet/file jacket cover with the chronological listing of transactions in the instant application (discussed above); and

- make the required narrative statements (set forth above and again below).

On 10 March, 2009, the Office placed calls to Petitioner at the telephone number listed on the petition in an effort to discuss the matter with him, however, there was no answer at the number and no service/recording system appeared available to take a phone message.

The petition was dismissed on 12 March, 2009.

On 13 May, 2009, Petitioner again filed a petition pursuant to 37 C.F.R. §1.181, and now for the fourth time failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I)—and specifically Petitioner failed to supply a copy of Petitioner's office/firm calendar for the due date (to wit: 14 May, 2006). Moreover, while Petitioner made statements of nonreceipt, Petitioner repeatedly has failed to state that the Office action in question was not received at the correspondence address of record.

Petitioner is not permitted to make up his own rules and policy, but, rather, must comply with that of the Office.

Again, the express requirements set forth in the Commentary at MPEP §711.03(c)(I) are, in pertinent part:

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[1] See: the Commentary set forth at MPEP §711.03(c)(I), see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c .

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2] (Emphasis supplied)

(In this specific case the due date was two (2) months, not three (3), from the 22 March, 2006, mail date of the Office action.)

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and

- those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[2] *See*: MPEP §711.03(c) (I)(A).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to

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[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] 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.))

[6] 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).

Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/358,847	02/18/2006	Dennis J. Solomon	

CONFIRMATION NO. 8093
FORMALITIES LETTER

Dennis J. Solomon
PO Box 289
Yarmouth Port, MA 02675-0289

Date Mailed: 03/22/2006

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).

- Additional claim fees of **$100** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$100** for a Small Entity

- Total additional claim fee(s) for this application is **$100**
  - **$100** for **1** independent claims over 3.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

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
www.uspto.gov

DENNIS J. SOLOMON
PO BOX 289
YARMOUTH PORT MA 02675-0289

COPY MAILED

SEP 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Solomon :
Application No. 11/358,847 : DECISION
Filed: 18 February, 2006 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 18 August, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (copy enclosed) mailed on 14 March, 2006, with reply due absent extension of time on or before 14 May, 2006.

The application went abandoned by operation of law after midnight 14 May, 2006.

The Office mailed a Notice of Abandonment on 26 June, 2007.

On 16 July, 2007, Petitioner filed a petition and averred non-receipt, and provided therewith a document that Petitioner identifies as a "'task list' for [his] performance display related patents—

the 'docket report' …. ." Because Petitioner failed to make the showing required,[1] the petition was dismissed on 26 August, 2008.

On 28 October, 2008, Petitioner filed a petition. There did not appear to be accompanying the petition a copy of the docket sheet for this application reflecting chronologically all transactions (i.e., submissions by Petitioner to the Office (e.g., application filed, responses to the Office) and actions/notices mailed by the Office to Petitioner); an accompanying document appeared to be a copy of Petitioner's due-date calendar for the due date of the response herein (14 May, 2006). However, Petitioner also appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I) to ensure compliance with its narrative/statement requirements as well as those regarding documentation. Because Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part the petition was dismissed on 1 December, 2008.

Petitioner filed a petition on 2 February, 2009, and once again failed to:

- provide a docket sheet/file jacket cover with the chronological listing of transactions in the instant application (discussed above); and

- make the required narrative statements (set forth above and again below).

On 10 March, 2009, the Office placed calls to Petitioner at the telephone number listed on the petition in an effort to discuss the matter with him, however, there was no answer at the number and no service/recording system appeared available to take a phone message.

The petition was dismissed on 12 March, 2009.

On 13 May, 2009, Petitioner again filed a petition pursuant to 37 C.F.R. §1.181, and now for the fourth time failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I)—and specifically Petitioner failed to supply a copy of Petitioner's office/firm calendar for the due date (to wit: 14 May, 2006). Moreover, while Petitioner made statements of nonreceipt, Petitioner repeatedly has failed to state that the Office action in question was not received at the correspondence address of record. The petition was dismissed on 15 June, 2009.

On 18 August, 2009, Petitioner resubmitted the petition and made the statements and provided the documentation in support not inconsistent with the guidance set forth in the Commentary at MPEP §711.03(c)(I).

The express requirements set forth in the Commentary at MPEP §711.03(c)(I) are, in pertinent part:

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[1] See: the Commentary set forth at MPEP §711.03(c)(I), see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c .

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2] (Emphasis supplied)

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Petitioners always are reminded that: the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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.

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[2] *See*: MPEP §711.03(c) (I)(A).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

---

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] 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.))

[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted** and the 26 June, 2007, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2176 for further processing in due course, to include the re-mailing of the Office action in question.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACCORD MASON PLLC
P.O. BOX 2974
GREENSBORO, NC 27402

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Christina Marie Gabbard Martinez :
Application No. 11/358,850 : ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 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 non-final Office action mailed July 26, 2006, 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 October 27, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3761 for further processing.

Irvin Dingle
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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/358,850	02/21/2006	Christina Marie Gabbard Martinez	

CONFIRMATION NO. 8092

MACCORD MASON PLLC
P.O. BOX 2974
GREENSBORO, NC 27402

OC000000024999326

Date Mailed: 07/24/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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
11/358,850	02/21/2006	Christina Marie Gabbard Martinez	

CONFIRMATION NO. 8092

Christina Marie Gabbard
284 Cinnamon Way
Clemmons, NC 27012

OC000000024999200

Date Mailed: 07/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE, IL 60555

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FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of
Leon Thomsen et al
Application No. 11/358,851
Filed: February 21, 2006
Attorney Docket No. 39,146

ON PETITION

This is a decision on the petition filed January 6, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 26, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 27, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCOTT A. MOSKOWITZ
16711 COLLINS AVENUE #2505
SUNNY ISLES BEACH FL 33160

MAILED

OCT 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Moskowitz, Scott A.	:	DECISION ON PETITION
Application No. 11/358,874	:	TO WITHDRAW
Filed: February 21, 2006	:	FROM RECORD
Attorney Docket No. 80391.0008 (066358.0107)	:	

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 power of attorney was revoked by the applicant of the patent application on September 17, 2009. Further, the Request was left unsigned. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed August 11, 2009 which requires a reply. Failure to timely do so will result in abandonment of the application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

SEP 16 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

In re Application of
OSAKA, HITOSHI, et al.
Application No. 11/358,884
Filed: February 21, 2006
Attorney Docket No. B588-114(25815.117)

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 10, 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:

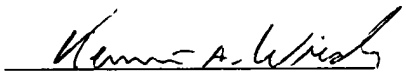
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN TX 78701

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Mark H. Springer :
Application No. 11/358,912 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. **SPRG001US1** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 22, 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**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include a doctor's certificate or medical certificate stating that the health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course.

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 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 3693 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN TX 78701

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SEP 19 2008

In re Application of	:	
Mark H. Springer	:	
Application No. 11/358,912	:	DECISION ON PETITION
Filed: February 22, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SPRG001US1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed September 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a doctor's certificate stating that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. 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 3693 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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DAVID A. HALL
HELLER ERHMAN WHITE AND MCAULIFFE LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122-1246

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JUN 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Sullivan, Benjamin D.	:	DECISION ON PETITION
Application No. 11/358,986	:	TO WITHDRAW
Filed: February 21, 2006	:	FROM RECORD
Attorney Docket No. 39754-6191B	:	

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 16, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **NOT APPROVED.**

A review of the file record indicates that Alan C. Gordon does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Further, Alan C. Gordon is not listed as an attorney or agents associated with Customer Number 33123, and therefore cannot request that the attorneys/agents associated with said Customer Number be withdrawn. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, the reason given for the request is unacceptable. The assignee has not intervened with a proper 3.73(b).

The correspondence address of record remains unchanged and will continue to be directed to the above-listed address until properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

DAVID A. HALL
TOWNSEND AND TOWNSEND AND CREW LLP
12730 HIGH BLUFF DRIVE, SUITE 400
SAN DIEGO, CA 92130

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Benjamin D. Sullivan :
Application No. 11/358,986 : ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 021935-000311US :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 2, 2007 and supplemented on September 12, 2007, to revive the above-identified application.

The application became abandoned for failure to reply to the non-final Office action mailed July 25, 2006. A Notice of Abandonment was mailed on February 22, 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 terminal disclaimer under 37 CFR 1.321; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to Technology Center Art Unit 2856, for review of the amendment 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

cc: David Hall
12730 High Bluff Drive, No. 400
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Benjamin D. Sullivan	: DECISION ON REQUEST FOR
Patent Number	: 7574902	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,986	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **505** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Benjamin D. Sullivan
Patent Number : 7574902
Issue Date : 08/18/2009
Application No: 11/358,986
Filed : 02/21/2006

: 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 **589** 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

Law Office of Scott C Harris Inc
P.O. Box 1389
Rancho Santa Fe, CA 92067

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In re Application of :
Nigel Evans, et. al. :
Application No. 11/358,987 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. PRG-94005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 17, 2007. Accordingly, the date of abandonment of this application is January 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Chen-Jean Chou	: DECISION ON REQUEST FOR
Patent Number	: 7582952	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/358,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **672** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/21/2010

Applicant	: Burkhard Becker	: DECISION ON REQUEST FOR
Patent Number	: 7627062	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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OFFICE OF PETITIONS

In re Application of :
Arnold ERICSEN et al. :
Application No. 11/359,019 : DECISION ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 1406.18683-PROV FOR :

This is a decision on the petition, filed July 14, 2009, which is being treated as a petition under 37 CFR 1.8(b) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 23, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 23, 2009. The application was abandoned on March 24, 2009.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the non-final Office action mailed, December 23, 2008. Petitioner has provided the Office with a copy of the post card receipt dated June 26, 2009, with a Certificate of Mailing dated June 22, 2009.

A review of the Office records indicates that the response was timely filed with a three (3) month extension of time on June 26, 2009, which makes the reply timely filed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

Thurman K. Page
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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www.uspto.gov

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: Allen G. Timm	: DECISION ON REQUEST FOR
Patent Number	: 7588164	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,021	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MCKEE VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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DEC 26 2006

OFFICE OF PETITIONS

In re Application of :
Larry W. Kiest Jr. :
Application No. 11/359,026 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. P07117US01 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed April 21, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3754 for action on the merits commensurate with this decision.

Denise Pothier
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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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

Mail Date: 04/21/2010

Applicant	: Ming-Chang Kuo	: DECISION ON REQUEST FOR
Patent Number	: 7655970	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **582** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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www.uspto.gov

Hulsey IP Intellectual Property Lawyers, P.C.
919 Congress Avenue, Suite 919
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application of

Mark H. Springer
Application No. 11/359,058
Filed: February 22, 2006
Attorney Docket No. SPRG001US2

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 October 22, 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**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required.

Petitioner declares that he is suffering from a generic disorder Huntington disease. The petition was accompanied by a letter from Dr. Susan L. Pearlman. Although petitioner declares that he may not be able to assist in the prosecution of the present application if it were to run its normal course, the petitioner's physical condition as summarized by Susan L. Perlman, does not appear to be life threatening at this time.

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 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 3693 for action in its regular turn.

Kimberly Inabinet
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

HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application of :
Mark H. Springer :
Application No. 11/359,058 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. SPRG001US2 : 37 CFR 1.102(c)(1)
:

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed April 22, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a medical certificate for applicant's physician and also a statement that the applicant may not be able to assist in the prosecution of the application if it were to run its normal course. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 3693 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: Joel Feldman	: DECISION ON REQUEST FOR
Patent Number	: 7610928	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **868** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/2/2010

TO SPE OF : ART UNIT 2834 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/359,063 Patent No.: 7,535,136

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

Ernest C. White. LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

_____

_____

_____

SPE _____ **ART UNIT** 2834

11/359073

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070510

DATE : May 10, 2007

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction on Patent No.: 7,102,143

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:

The request for a Certificate of Correction on Patent 7,102,143 has been denied, as the applicant has not met the requirements of 35 U.S.C. 120 and 37 CFR 1.78. There is no application data sheet and the first sentence of the specification do not meet the requirements for a domestic priority claim to the parent application. Further, the certificate request includes a misspelling in the word "abandonded".

DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Art Unit 2884

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 05/03/07

TO SPE OF : ART UNIT 2884 for Appl. No.: **11/359073** Patent No.: **7102143**

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**.

Angela Green
Certificates of Correction Branch
703.308.9380 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.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: See previous comments

SPE

2884
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.usplo.gov

Date :June 26, 2007

Patent No. :7,102,143
Inventor(s) :Leblans et al.
Issued :September 5, 2006
Title :BINDERLESS STORAGE PHOSPHOR SCREEN COMPRISING A SUPPORT INCLUDING
:AMORPHOUS (A-C) CARBON LAYER

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction.

Review of the application file has revealed the omission of the Related Application data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 120 and 37 CFR 1.78, in that conditional requirements were not met. There is no application data sheet and the first sentence of the specification do not meet the requirements for a domestic priority claim to the parent application. Further, the certificate request includes a misspelling in the word "abandoned".

In view of the forgoing, applicant's request in this matter is hereby denied, however, a certificate of correction will issue to correct the remaining errors noted in applicants request.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Joseph T. Guy, LLC
Nexen Pruet, LLC
P.O. Box 10107
Greenville, SC 29603

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/08/07

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/359073** Patent No.: **7102143**

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**.

Angela Green
Certificates of Correction Branch
703.308.9380 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.

- ☒ **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**

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

NEIL JETTER
DARBY & DARBY
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-077

In re Application of :
Steven Patrick LAUR, et al :
Application No. 11/359,076 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. 7302-24 : 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 November 15, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Neil R. Jetter does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the first copied address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

cc: FOGG & POWERS, LLC
10 SOUTH FIFTH STREET, SUITE 1000
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Trung Tri Doan	: DECISION ON REQUEST FOR
Patent Number	: 7576012	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 19 2007

OFFICE OF PETITIONS

Applicant: Peshkin et al.
Appl. No.: 11/359,105
Filing Date: February 22, 2006
Title: ELECTRICAL DAMPING SYSTEM
Attorney Docket No.: 16462US02
Pub. No.: 2006/0187197 A1
Pub. Date: August 24, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on October 6, 2006, for the above-identified application.

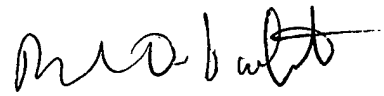
The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Applicant is advised that he may want to file application papers that are clearer, as the errors may be due to the quality of the text. The text in the some of the formulas is small, 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.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and **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.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709 (voice).



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
Juan E. DOMINGUEZ et al. :
Application No. 11/359,165 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. **P21397** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 26, 2009. Accordingly, the date of abandonment of this application is April 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 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. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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DRW Jul-06

DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Selim Nurudeen	:	
Application No. 11/359,180	:	DECISION DISMISSING PETITION
Filed: 22 February, 2006	:	
For: SWEEPER VACUUM CLEANER ASSEMBLY	:	

This is a decision in reference to the petition filed on 22 May, 2006, requesting that the above-identified application be accorded a filing date of 22 February, 2006, with Page 4 of the specification and Figures 8A-8B described in the specification as a part of the original disclosure.

The petition is dismissed.

On 22 February, 2006, the application was filed.

Accordingly, on 22 March, 2006, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that Page 4 of the specification (description and claims) and Figure(s) 8A-8B described in the specification appeared to have been omitted from the application. In response, on 22 May, 2006, the present petition and a copy of, *inter alia*, Page 4 of the specification and one (1) sheet of drawings containing Figures 8A-8B were filed.

Petitioner asserts that no application pages or drawings were missing on 22 February, 2006.

Petitioner's argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that Pages 1-3 and 5-15 of the specification, including the claims and one (1) page of abstract, and 14 sheets of drawings comprising Figures 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12A, 12B, 13,

14A, 14B, and 15 were filed on 22 February, 2006. No Page 4 of the specification or sheet of drawings containing Figures 8A-8B were filed on 22 February, 2006, since no such pages of specification and sheets of drawings is present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 22 February, 2006, showing that Page 4 and Figures 8A-8B were received in the USPTO on 22 February, 2006, the application cannot be accorded a filing date of 22 February, 2006, with Page 4 and Figures 8A and 8B as a part of the original disclosure.

Petitioners should submit a copy of any itemized return receipt postcard stamped by the Office with any renewed petition.

The application will be processed using only the application papers present on filing.

As this petition was necessitated by applicants= filing error rather than an error on the part of the Office, a petition fee of $400.00 will not be refunded.

The application will be processed using only the application papers present on filing.

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[1] The public was afforded a "reminder" ofthe then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 22 February, 2006, using only the application papers filed on that date.

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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Rick Mavrakis	: DECISION ON REQUEST FOR
Patent Number	: 7648085	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,181	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **500** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MATHEW J. TEMMERMAN
423 E. STREET
DAVIS, CA 95616

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Benard et al.	:	
Application No. 11/359,186	:	DECISION REFUSING
Filed: February 22, 2006	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
COLOR COSMETIC COMPRISING	:	
YERBA SANTA EXTRACT	:	

This is in response to a Petition Under 37 CFR § 1.47(a), filed May 24, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and 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 February 22, 2006, without a fully executed oath or declaration. In response, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 24, 2006, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition and avers that the application papers were emailed to the nonsigning inventor, and Applicantl subsequently received an email from a person, presumably the nonsigning inventor's employer, stating that the he would not authorize the nonsigning inventor to execute the application papers. No copies of the

email from the nonsigning inventor's employer have been provided, nor has Applicant provided any indication from the nonsigning inventor that the application papers, sent electronically, were received by the nonsigning inventor.

Applicable Law

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 (1).

As to item (1),

> 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. 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 USPQ 80 (Comm'r Pat. 1956).

MPEP 409.03(d)

The MPEP further provides that "[w]hen 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." (Emphasis supplied). Id.

Analysis

Applicant has failed to demonstrate that a copy of the application was presented to the nonsigning inventor. Initially it is noted that a petition filed based upon putative receipt of an application transmitted via email must contain evidence of receipt by the intended recipient. While an email may have apparently been transmitted successfully, a recipient may have been unable to open an attachment, or an attachment may have simply not been received. As such, the Office requires evidence of receipt of an email transmission from the recipient. Alternatively, an applicant may mail a copy of the application papers via the United States Postal Service.

Conclusion

Applicant must demonstrate that a copy of the application papers were presented to the inventor, or provide specifics in a statement of facts as to the time and place of the refusal from a person with first-hand knowledge of the refusal.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

MATHEW J. TEMMERMAN
423 E. STREET
DAVIS, CA 95616

In re Application of	:	
BENARD, et al.	:	
Application No. 11/359,186	:	DECISION ON PETITION
Filed: February 22, 2006	:	TO WITHDRAW
Attorney Docket No. 208302	:	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 06, 2006.

The request is **APPROVED**.

A review of the file record indicates that Mathew J. Temmerman: (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, Mathew J. Temmerman 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).

Applicant is reminded that there is no attorney of record at this time.

There is no outstanding Office action that requires a reply from the applicant.

All future correspondence will be directed to the first named inventor Charlie Benard at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Charlie Benard
4170 Douglas Boulevard
Granite Bay, CA 95746

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GREENBERG TRAURIG, LLP (SV2)
2450 Colorado Avenue, Suite 400E
Santa Monica CA 90404

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of :
Jones et al. :
Application No. 11/359193 : ON PETITION
Filing Date 02/21/2006 :
Attorney Docket Number: 74806-200901/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 9, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 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 a Request for Continued Examination (RCE) and fee (and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 2853 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

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Greenberg Traurig, LLP (SV2)
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

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OFFICE OF PETITIONS

In re Application of :
Randy Quinn Jones et al. :
Application No. 11/359,193 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. 74806-200901/US : 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, 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 John P. Ward on behalf of all attorneys/agents associated with customer number 56188. All attorneys/agents associated with customer number 56188 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor at the address noted on the oath and declaration. 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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Randy Quinn Jones
1546 Orillia Court
Sunnyvale, CA 94087

cc: Squire, Sanders & Dempsey, LLP
Patent Department
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/359,193	02/21/2006	Randy Quinn Jones	74806-200901/US

CONFIRMATION NO. 1500

56188
GREENBERG TRAURIG, LLP (SV2)
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

POWER OF ATTORNEY NOTICE

OC000000032906616

Date Mailed: 10/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

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APR 25 2007

OFFICE OF PETITIONS

In re Application of
BURSTEIN, Ethan et al.
Application No. 11/359,209
Filed: February 21, 2006
Attorney Docket No. **65167.00010**

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 08, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to SQUIRE, SANDERS & DEMPSEY L.L.P. has been revoked by the assignee of the patent application on March 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VISTA IP LAW GROUP LLP**
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

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MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 11/359,232 : ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 128534-07801 (07030774) :

This is a decision on the request under 37 CFR 1.48(a), filed November 29, 2007, to amend the inventive entity by the addition of Russell G. Almond

The petition 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.

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 instant petition has met all of the above requirements. Accordingly, Russell G. Almond has been added as a co-inventor in the instant application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3714 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
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MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 11/359,232 : ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 128534-07801 :
(07030774)

This is a decision on the petition under 37 CFR 1.182, filed November 29, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Valerie J. SHUTE
2. Eric G. HANSEN
3. Russell G. ALMOND

This matter is now being referred to Technology Center 3714 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/359,232	02/22/2006	3714	565	128534-07801 (07030774)	20	2

CONFIRMATION NO. 8509

26565
MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690

CORRECTED FILING RECEIPT

OC000000031002410

Date Mailed: 07/16/2008

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)

Valerie J. Shute, Pennington, NJ;
Eric G. Hansen, Fairless Hills, PA;
Russell G Almond, Lawrenceville, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 26565

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/654,982 02/22/2005

Foreign Applications

If Required, Foreign Filing License Granted: 04/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/359,232**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and system for designing adaptive, diagnostic assessments

Preliminary Class

434

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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IL01/3RD
SCHAUMBURG IL 60196

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Ariel Luzzatto et al.	:	
Application No. 11/359,246	:	DECISION DISMISSING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CM06098EI	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed international Application No. PCT/EP2004/051289, filed June 29, 2004.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 lacks item (1).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). Petitioner is claiming that the instant application is a **continuation** of the PCT application under 35 USC 120 (not under 35 USC 119 (a)-(d) as set forth in the petition). Therefore, the amendment is not in compliance with the amendment format specified in MPEP 201.11 III A.

Further, the revised Application Data Sheet (ADS) submitted with this petition erroneously references the instant application as a 371 of the international application. Additionally, the ADS fails to specify which application is to be the parent of the continuation.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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 Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Ariel Luzzatto et al. :
Application No. 11/359,246 : DECISION DISMISSING PETITION
Filed: February 21, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CM06098EI :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP2004/051289, filed June 29, 2004, as set forth in the accompanying amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition lacks item (3).

The statement of unintentional delay references 37 CFR 1.55(a)(1) rather than 37 CFR 1.78(a)(3). Thus the statement is unacceptable.

Before the petition can be granted, petitioner must submit a statement of unintentional delay in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

/David Bucci/
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
Ariel Luzzatto et al :
Application No. 11/359,246 : DECISION ON PETITION
Filed: February 21, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CM06098EI :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 12, 2008 , to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP 2004/051289, filed June 29, 2004, as set forth in the amendment filed October 29, 2008.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the

the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

The surcharge fee for the instant petition is $1,410 (§ 1.17(t)), however petitioner was charge only $130 against his deposit account on April 28, 2008. The balance of $1,280 has been charged to petitioner's deposit account.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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 the examiner of Technology Center Art Unit 3662 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

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
11/359,246	02/21/2006	3662	1380	CM06098EI	25	3

CONFIRMATION NO. 9029

CORRECTED FILING RECEIPT

24273
MOTOROLA, INC
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

Date Mailed: 02/06/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ariel Luzzatto, Tel Aviv, ISRAEL;
Salomon Serfaty, Tel Aviv, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 24273

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP2004/051289 06/29/2004

Foreign Applications

UNITED KINGDOM GB0319703.5 08/21/2003
EUROPEAN PATENT OFFICE (EPO) PCT/EP04/51289 06/29/2004

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/359,246**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MEASURING DISTANCE USING WIRELESS COMMUNICATION

Preliminary Class

342

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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OCT 11 2006

OFFICE OF PETITIONS

In re Application of :
Keech et al. :
Application No. 11/359,247 : ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. JK 05201 :

This is a decision on the petition under 37 CFR §1.102(d), filed August 14, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3727 for expedited prosecution.

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Steven K. Yoshinaga et al :
Application No. 11/359,254 : ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. A-579E :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 23, 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 24, 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 1644 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Aaron W. Arbesman	: DECISION ON REQUEST FOR
Patent Number	: 7646174	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 05/17/2010

Applicant	: Toan Thanh Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7659838	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/359,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1025** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 :
Lior Okman et al. :
Application No. 11/359,288 : DECISION ON PETITION
Filed: February 26, 2006 : TO WITHDRAW
Attorney Docket No. PA3521US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael P. Wiersch and the attorneys and/or agents associated with Customer Number 22830 have been revoked by the assignee of the patent application on August 18, 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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Pillsbury Winthrop Shaw Pittman LLP**
1650 Tysons Boulevard
McLean, VA 22102-4859

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ROCKWELL AUTOMATION, INC./(IH)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

Mail Date: 04/21/2010

Applicant	: Eugene Boe	: DECISION ON REQUEST FOR
Patent Number	: 7610108	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Tirza Berger Peskin :
Application No. 11/359,324 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 72663-A/JPW/GJG/NDP : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 19, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ron Abelson at 571-272-3165 or the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1619 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of :
Tirtza Berger Peskin :
Application No. 11/359,324 : DECISION GRANTING PETITION
Filed: February 22, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 72663-A/JPW/GJG/NDP :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1619 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Scott M. Serani	: DECISION ON REQUEST FOR
Patent Number	: 7653945	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: 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.

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OFFICE OF PETITIONS

In re Application of :
Lior Okman et al. :
Application No. 11/359,331 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. PA3392US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael P. Wiersch and the attorneys and/or agents associated with Customer Number 22830 have been revoked by the assignee of the patent application on August 18, 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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Pillsbury Winthrop Shaw Pittman LLP**
1650 Tysons Boulevard
McLean, VA 22102-4859

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PHARMACIA & UPJOHN
7000 Portage Road
KZO-300-104
KALAMAZOO MI 49001

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OFFICE OF PETITIONS

In re Patent No. 7,544,362
Yoo et al.
Issue Date: June 9, 2009
Application No. 11/359,334
Filed: February 22, 2006
Attorney Dkt. No. PC32632A
Title: N Protein Mutants of Porcine Reproductive and Respiratory Syndrome Virus

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Application For Patent Term Adjustment Determination Under 37 CFR 1.705(d)/1.18(e)" filed July 20, 2009. Patentees request that the patent term adjustment be changed from 100 days to 207 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On June 9, 2009, the above-identified application matured into US Patent No. 7,544,362 with a patent term adjustment of 100 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 107 days, does not overlap with the 197 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentees request that the determination of patent term adjustment be increased by 107 days to a total of two hundred seven (207) days (107 + 197- 97).

Patentees submit that the total period of adjustment for Office delay is 304 days (the sum of the period of three-year delay (107 days) and the period of examination delay (197 days). As such, patentees assert entitlement to a patent term adjustment of 207 days (107 days *plus* 197 days less 97 days of applicant delay).

The Office finds that as of the issuance of the patent on June 9, 2009, the application was pending three years and 107 days after its filing date. An entry of a period of adjustment of 197 days was entered for Office delay. Further, an undisputed reduction of 97 days for applicants' failure to engage in reasonable efforts to conclude prosecution was taken. At issue is whether patentees should accrue 107 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 197 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 107 days overlap. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent

term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 22, 2006 to the date the patent issued on June 9, 2009. The Office did not delay 197 days and then delay an additional 107 days. Accordingly, 197 days of patent term adjustment for Office delay (not 197 days and 107 days) was properly entered because the entire period of delay of 107 days attributable to the delay in the issuance of the patent under 37 CFR 1.702(b) overlaps with

the 197 days attributable to grounds specified in § 1.702(a)(1) and (a)(2). Further, patentees failed to engage by an uncontested period of 97 days.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 100 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell for

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Cc: Pfizer, Inc.
Patent Department 2nd Floor
150 East 42nd Street
New York, NY 10017-5755

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6000 Portage Road
Kalamazoo, Michigan 49001

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In re Patent No. 7,544,362	:
Yoo et al.	: DECISION UPON REMAND AND
Issue Date: June 9, 2009	: RECONSIDERATION OF
Application No. 11/359,334	: PATENT TERM ADJUSTMENT
Filed: Feb. 22, 2006	: AND NOTICE OF INTENT
Attorney Docket No. PC32632A	: TO ISSUE CERTIFICATE OF
Title: PROTEIN MUTANTS OF PORCINE REPRODUCTIVE AND RESPIRATORY SYNDROME VIRUS	: CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by two hundred and seven (207) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,362 B2

DATED : **June 9, 2009** **DRAFT**

INVENTOR(S) : Yoo 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 100 days

Delete the phrase "by 100 days" and insert – by 207 days--

Day : Wednesday

PALM INTRANET

Date: 3/17/2010
Time: 13:37:44

PTA Calculations for Application: 11/359334			
Application Filing Date:	02/22/2006	PTO Delay (PTO):	197
Issue Date of Patent:	06/09/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	97
Post-Issue Petitions:	0	Total PTA (days):	207
PTO Delay Adjustment:	107		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	03/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	107		
50.5	05/20/2009	PTA 36 MONTHS			
50	06/09/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	05/13/2009	EXPORT TO FINAL DATA CAPTURE			
48	05/12/2009	FINISHED INITIAL DATA CAPTURE			
47	05/12/2009	DISPATCH TO FDC			
46	03/11/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	03/02/2009	ISSUE FEE PAYMENT VERIFIED			
44	03/02/2009	ISSUE FEE PAYMENT RECEIVED			
43	03/02/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
42	02/16/2009	EXPORT TO INITIAL DATA CAPTURE			
40	02/12/2009	MAIL NOTICE OF ALLOWANCE	14		26
39	02/12/2009	PG-PUB NOTICE OF NEW OR REVISED PROJECTED PUBLICATION DATE			
38	02/11/2009	DOCUMENT VERIFICATION			
37	02/11/2009	ISSUE REVISION COMPLETED			
36	02/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	02/11/2009	CASE DOCKETED TO EXAMINER IN GAU			
34	02/05/2009	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
33	02/03/2009	EXAMINER'S AMENDMENT COMMUNICATION			
32	02/02/2009	NOTICE OF ALLOWABILITY			
27	11/18/2008	DATE FORWARDED TO EXAMINER			
26	09/29/2008	RESPONSE AFTER NON-FINAL ACTION		97	24

25	09/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/24/2008	MAIL NON-FINAL REJECTION			
23	03/21/2008	NON-FINAL REJECTION			
22	04/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	01/22/2008	DATE FORWARDED TO EXAMINER			
20	01/04/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
19	01/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	10/22/2007	MAIL RESTRICTION REQUIREMENT	183		-1
17	10/19/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16	08/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	06/06/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	05/11/2006	APPLICATION DISPATCHED FROM OIPE			
11	05/11/2006	APPLICATION IS NOW COMPLETE			
10	05/08/2006	ADDITIONAL APPLICATION FILING FEES			
9	05/08/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	03/20/2006	AGENCY REFERRAL LETTER MAILED			
7	03/20/2006	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	03/13/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/11/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	03/08/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	03/05/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/22/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	02/22/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA CA 92038-0573

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Jerome Segal et al. :
Application No. 11/359,335 : DECISION ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 70871.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 31, 2008. Accordingly, the date of abandonment of this application is February 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 $755.00, and the publication fee of $300 (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to be acknowledged as the attorney of record, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
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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KRATZ, QUINTOS & HANSON LLP
1420 K Street N.W.
SUITE 400
WASHINGTON, DC 20005

JUN 25 2008

In re Application of :
HARUYOSHI YADA ET AL. :
Application No.: 11/359388 : DECISION ON
Filing or 371(c) Date: 02/23//2006 : PETITION
Attorney Docket Number: 060119 :

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed February 29, 2008. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This is **dismissed**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed October 05, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on January 31 2008. A Notice of Abandonment was mailed January 31, 2008.

Applicant/Petitioner files the present petition and asserts that the Examiner stated in the Amendment/Comment enclosed with the Notice of Allowance, that "[w]hile the drawings filed with this application were acceptable for examination purposes, it is suggested that applicant submit formal drawings for printing."

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

Applicable Law, Rules and MPEP

The statute, 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.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which 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.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant filed a reply on February 29, 2008, to with –corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

MPEP 711.03(c)(I)(A)

The failure to receive a Notice of Abandonment does not alter the abandoned status of the application.

> 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. (Emphasis supplied).

Conclusion

The evidence has been considered. Applicant has failed to demonstrate that withdrawing the holding of abandonment is appropriate. Accordingly, the application is properly held abandoned.

Alternative venue

Applicant may alternatively file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 x 154

Anita Greene
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

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FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Yada et al.	:	
Application No.: 11/359388	:	DECISION ON
Filing or 371(c) Date: 02/23/2006	:	PETITION
Attorney Docket Number:	:	
060119	:	

This is a decision in response to the "Renewed Petition Under 37 CFR § 1.137(e), requesting withdrawal of the holding of abandonment, filed July 15, 2008. The petition is properly treated under 37 CFR 1.181.

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 Allowability, mailed October 5, 2007. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No reply to the Notice of Allowability having been filed, the application became abandoned January 6, 2008. A Notice of Abandonment was mailed January 31, 2008.

The February 29, 2008 petition

Applicant filed a petition on February 29, 2008 wherein Applicant alleged that in the Notice of Allowability erroneously required corrected drawings. Applicant stated that the error was brought to the Examiner's attention in a phone call, and that the Examiner indicated that the error would be corrected.

The petition was dismissed in a Decision mailed June 25, 2008. The Decision dismissing the petition informed Applicant that the applicable statute, 35 U.S.C. 133, mandated that the

application became abandoned if Applicant fails to prosecute the application within the time period set by the Director. The Decision further noted the rule, 37 CFR 1.135, reiterating and expounding upon the statute by stating that unless a reply is complete and proper as the condition of the application requires, the application will become abandoned. Finally, the Decision stated the rule, 37 CFR 1.4(c), which that all business should be conducted in writing,

The present renewed petition

Applicant files the present renewed petition and notes that the Examiner has since the Decision dismissing the February 29, 2008 petition, entered an Interview Summary in the file stating that the drawing was not needed with the payment of the issue fee. In view of the written record now being present in the file history confirming that replacement drawing was not necessary with the payment of the issue fee, Applicant renews his request for withdrawal of the holding of abandonment.

Applicable Law Rules and MPEP

The applicable statute, 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.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

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).

This section of the statute is further clarified in Office rule 37 CFR § 1.135, Abandonment for failure to reply within time period, which 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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that a failure to reply will result in the abandonment of the application.

Applicant is reminded that all business with this Office must be conducted in writing. The applicable rule, 37 CFR 1.2 states:

> All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Analysis

Applicant asserts that that the error was brought to the Examiner's attention in a phone call, and that the Examiner indicated that the error would be corrected; however, as stated above, all business should be conducted in writing. Moreover, Applicant did not file a response to the Notice. The MPEP 711.03(c), explaining unavoidable delay, proves instructive. It states:

> 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). (Emphasis supplied).

While this section refers to a final Office action, the principal is equally applicable to a Notice of Allowability. The applicable statute and rule do not differentiate between Office actions. The law 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.... (Emphasis supplied).

The rule similarly states:

> If an applicant of a patent application fails to reply within the time period provided under § 1.134[1] and § 1.136, the application will become abandoned unless an Office action indicates otherwise

Here, Applicant failed to file a reply to the Notice. That the Notice's requirement for replacement drawing may have been issued in error does not relieve Applicant of the requirement to file a reply to the Notice. Instead of properly responding to the Notice in writing, Applicant simply permitted the statutory period for reply to expire.

There is no disagreement as to the sufficiency of the reply, because no reply was filed. Since no timely or proper reply to the Notice was filed, the application is abandoned. As stated in the MPEP: Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

The Office may not withdraw the holding of abandonment because the requirement to file a reply to the Notice is set by statute, and strict compliance with the statutory terms is essential.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable."

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

[1] 37 CFR 1.134 states: "An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed." It does not differentiate as to the Office action.

appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Yada et al.	:	
Application No.: 11/359388	:	DECISION ON
Filing or 371(c) Date: 02/23/2006	:	PETITION
Attorney Docket Number:	:	
060119	:	

This is a decision in response to the "Petition Under 37 CFR § 1.137(b), to revive the present application, filed February 17, 2009.

This Petition is hereby granted.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed October 5, 2007. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No reply to the Notice of Allowability having been filed, the application became abandoned January 6, 2008. A Notice of Abandonment was mailed January 31, 2008.

The February 29, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment under 37 CFR 1.181, on February 29, 2008 wherein Applicant alleged that in the Notice of Allowability erroneously required corrected drawings. Applicant stated that the error was brought to the Examiner's attention in a phone call, and that the Examiner indicated that the error would be corrected.

The petition was dismissed in a Decision mailed June 25, 2008. The Decision dismissing the petition informed Applicant that the applicable statute, 35 U.S.C. 133, mandated that the application became abandoned if Applicant fails to prosecute the application within the time period set by the Director. The Decision further noted the rule, 37 CFR 1.135, reiterating and expounding upon the statute by stating that unless a reply is complete and proper as the condition of the application requires, the application will become abandoned. Finally, the Decision stated the rule, 37 CFR 1.4(c), which that all business should be conducted in writing.

The July 15, 2008 renewed petition

Applicant filed a renewed petition to withdraw the holding of abandonment and noted that the Examiner had, after the mailing of the Decision dismissing the February 29, 2008 petition, entered an Interview Summary in the file stating that the drawing was not needed with the payment of the issue fee. In view of the written record now being present in the file history confirming that replacement drawing was not necessary with the payment of the issue fee, Applicant renewed his request for withdrawal of the holding of abandonment.

The petition was again dismissed in a Decision mailed February 9, 2009. The Decision dismissing the petition reiterated that the applicable statute, 35 U.S.C. 133, mandated that the application became abandoned if Applicant fails to prosecute the application within the time period set by the Director. The Decision again noted the rule, 37 CFR 1.135, reiterating and expounding upon the statute by stating that unless a reply is complete and proper as the condition of the application requires, the application will become abandoned. Finally, the Decision stated the rule, 37 CFR 1.4(c), which that all business should be conducted in writing. In this instance, Applicant did not file a response to the Notice. That the Notice's requirement for replacement drawing may have been issued in error did not relieve Applicant of the requirement to file a reply to the Notice. Instead of properly responding to the Notice in writing, Applicant simply permitted the statutory period for reply to expire. The Decision noted that there is no disagreement as to the sufficiency of the reply, because no reply was filed. Since no timely or proper reply to the Notice was filed, the application is abandoned. As stated in the MPEP: Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

The present petition

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply filed in response to the Notice; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Data Management for processing into a patent. Please note the Examiner's Interview Summary filed July 10, 2008, wherein the Examiner stated that the drawings submitted on 2/23/2006 were of acceptable quality at the time of allowance.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Juntaro Azuchi :
Application No. 11/359,391 : RESPONSE TO PETITION
Filed: February 23, 2006 :
Attorney Docket No. 1011350-000368 :

This is a response to the petition under 37 CFR 1.59(b), filed April 1, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that the Request for Continued Examination (RCE), filed March 17, 2009, be expunged from the above identified application. The petition submits that this information was unintentionally submitted in the above identified application.

It is the intent of the Office that the patent file wrapper be as complete as possible insofar as "material" information is concerned. Information may be removed from the official file that is not "material." Here, the "materiality" of the RCE is not yet known.

Therefore, 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 information 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 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.**

Also, Request for Refund, filed April 1, 2009 will be processed separately from the petition to expunge.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
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
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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Atsushi Kojima	: DECISION ON REQUEST FOR
Patent Number	: 7640314	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Tanaka :
Application No. 11/359,414 : ON PETITION
Filed: February 23, 2006 :
Attorney Docket No. SON-3521 :

In re Application of :
Okubo :
Application No. 11/359,415 :
Filed : February 23, 2006 :
Attorney Docket No. SON-3516 :

This is a decision on the petitions, filed September 6, 2006, requesting that the original specification and drawings found within each of the above-identified applications be switched. The petitions will be treated under 37 CFR 1.182.

The petitions under 37 CFR 1.182 are **GRANTED**.

The undersigned has disregarded the typographical errors in the identification of the applications at issue found in the first full paragraph of the petition .

Petitioner has explained that the application currently found in application no. 11/359,414 includes 25 pages of description, 6 pages of claims, one page of abstract, and 9 sheets of drawings. Application no. 11/359,414 was complete on February 23, 2006 and should be entitled to a filing date of February 23, 2006.

Petitioner has explained that the application currently found in application no. 11/359,415 includes 18 pages of description, 2 pages of claims, 1 page of abstract, and 9 sheets of drawings.

Application no. 11/359,415 was complete on February 23, 2006 and should be entitled to a filing date of February 23, 2006.

However, through clerical error, the specifications and drawings of the two applications were inadvertently switched. It is noted that the inventors of the applications are different, but the assignee of both applications is Sony Corporation.

Petitioner requests that the Office switch the specification and drawings of application nos. 11/359,414 and 11/359,415.

The petition is granted.

After the mailing of this decision, the application files will be returned to the Office of Initial Patent Examination for further processing. The 25 pages of specification, 6 pages of claims, 1 page of abstract, and 9 sheets of drawings found in application no. 11/359,414 will be transferred to application no. 11/359,415. The 18 pages of specification, 2 pages of claims, 1 page of abstract, and 9 sheets of drawings found in application no. 11/359,415 will be transferred to application no. 11/359,414.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/359,414	02/23/2006	Keita Tanaka	3521	8940

23353 7590 09/18/2008

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
PERKEY, WILLIAM B	

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
09/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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RADER FISHMAN & GRAUER PLLC.
Lion Building
1233 20th Street N.W., Suite 501
Washington, DC 20036

In re Application of:
Tanaka
Serial No.: 11/359,414
Filed: February 23, 2006
Docket No.: SON-3521

NOTICE REGARDING LAST OFFICE ACTION BEING VACATED

The purpose of this communication is to inform you that the last office action mailed June 5, 2008 in the above-identified application is being vacated.

The reason the last office action is being vacated is the Petition Decision mailed December 1, 2006.

Telephone inquires should be directed to Patrick Assouad at (571) 272-2210.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Tanaka :
Application No. 11/359,414 : ON PETITION
Filed: February 23, 2006 :
Attorney Docket No. SON-3521 :

In re Application of :
Okubo :
Application No. 11/359,415 :
Filed : February 23, 2006 :
Attorney Docket No. SON-3516 :

This is a decision on the petitions, filed September 6, 2006, requesting that the original specification and drawings found within each of the above-identified applications be switched. The petitions will be treated under 37 CFR 1.182.

The petitions under 37 CFR 1.182 are **GRANTED**.

The undersigned has disregarded the typographical errors in the identification of the applications at issue found in the first full paragraph of the petition .

Petitioner has explained that the application currently found in application no. 11/359,414 includes 25 pages of description, 6 pages of claims, one page of abstract, and 9 sheets of drawings. Application no. 11/359,414 was complete on February 23, 2006 and should be entitled to a filing date of February 23, 2006.

Petitioner has explained that the application currently found in application no. 11/359,415 includes 18 pages of description, 2 pages of claims, 1 page of abstract, and 9 sheets of drawings.

Copied from 11359414 on 08/28/2008

Application no. 11/359,415 was complete on February 23, 2006 and should be entitled to a filing date of February 23, 2006.

However, through clerical error, the specifications and drawings of the two applications were inadvertently switched. It is noted that the inventors of the applications are different, but the assignee of both applications is Sony Corporation.

Petitioner requests that the Office switch the specification and drawings of application nos. 11/359,414 and 11/359,415.

The petition is granted.

After the mailing of this decision, the application files will be returned to the Office of Initial Patent Examination for further processing. The 25 pages of specification, 6 pages of claims, 1 page of abstract, and 9 sheets of drawings found in application no. 11/359,414 will be transferred to application no. 11/359,415. The 18 pages of specification, 2 pages of claims, 1 page of abstract, and 9 sheets of drawings found in application no. 11/359,415 will be transferred to application no. 11/359,414.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Copied from 11359414 on 08/28/2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100203

DATE : February 03, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7217832

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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KENYON & KENYON LLP
1500 K STREET N.W., SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :

Phillip MESHBERG :
Application No. 11/359,449 : DECISION ON PETITION
Filed: February 23, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 12055/57702 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 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 applicant's passport. 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 3754 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO IL 60603

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Seth J. BESMERTINIK, et al :
Application No. 11/359,452 : DECISION ON PETITION
Filed: February 7, 2006 : TO WITHDRAW
Attorney Docket No. 05.100-A : FROM RECORD
:

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 19, 2010.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of the first named inventor or an assignee of the entire interest who has properly been made of record under 37 C.F.R 3.71.

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.

/DCG/
/Diane C. Goodwyn/
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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Lennart Myhrberg	: DECISION ON REQUEST FOR
Patent Number	: 7597683	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **621** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Tsutomu Yamashita et al :
Application No. 11/359,484 : DECISION ON PETITION
Filed: February 23, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. K2020.0028/P028 : 37 C.F.R. § 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed on March 31, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a statement explaining the particle beam therapy system used for the treatment of cancer. Petitioner states "the present invention relates to a rotating gantry suitable for use in a particle beam therapy system for irradiating a charged particle beam (ion beam) to an affected part of a patient's body. The particle beam therapy system to which the rotating gantry is applied comprises a ion beam generator; an ion beam irradiation device for irradiating an ion beam, extracted from the ion beam generator, to an irradiation target (e.g. cancerous tumor); and a rotating gantry provided with the ion beam irradiation device." 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 2882 for action on the merits commensurate with this decision.

David Buccl
Petitions Examiner
Office of Petitions

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Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington, VA 22215

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OFFICE OF PETITIONS

In re Application of Harats et al. :
Application No. 11/359,513 : Decision on Petition
Filing Date: February 23, 2006 :
Attorney Docket No. 31577 :

This is a decision in response to the petition filed April 13, 2007, requesting the application be accorded a filing date of February 23, 2006, instead of May 23, 2006.

The petition is **granted**.

The application was filed February 23, 2006.

The Office of Initial Patent Examination mailed a Notice to File Missing Parts on March 23, 2006. The Notice stated Figure 56D described in the specification did not appear to be part of the application as filed.

In response, petitioner filed evidence to support an assertion Figure 56D was filed on February 23, 2006. Petitioner did not file a petition or supply a petition fee of $400. Petitioner did not ask for a filing date of the date the missing drawing Figure 56D was filed.

The Office incorrectly entered the new copy of Figure 56D and changed the filing date to May 23, 2006.

The present petition requests a filing date of February 23, 2006, and includes an amendment deleting all references to Figure 56D from the specification.

Upon review of the record, the Office has located Figure 56D filed on February 23, 2006. Therefore the application was complete on filing. The application, including Figure 56D, will be accorded a filing date of February 23, 2006.

The amendment deleting all references to Figure 56D in the specification will NOT be entered since the amendment is unnecessary because Figure 56D is part of the originally filed application.

The petition fee of $400 has been credited back to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision and will accord the application a filing date of February 23, 2006, using the application papers filed on February 23, 2006, including drawing Figure 56D.

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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OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Schuellein, et al. :
Application No. 11/359,534 : DECISION ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. IR-2823 DIV :
(2-5204) V6386

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 2, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed August 3, 2007. This Office action set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on December 3, 2007, made timely by obtaining a one month extension of time. However, by Advisory Action mailed December 28, 2007, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. The Office mailed a Notice of Abandonment was mailed on February 29, 2008.

A review of the application file reveals the presence of a Notice of Appeal, filed on January 3, 2008. The response was made timely by including an authorization to charge any required fees for an extension of time. A review of Office finance records reveals that the Office did in fact receive the fee for the Notice of Appeal and a one month extension. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

A two month extension of time ($460) was needed to make the Notice of Appeal timely. Applicants paid $120 on December 3, 2007, and $120 again on January 3, 2008. In view of Applicants' authorization to charge required fees to counsel's deposit account, an additional $220 has been charged to Deposit Account No. 15-0700.

The two (2) month period for filing an Appeal Brief runs from the mailing date of this decision.

The matter is being forwarded to Group Art Unit 2838 to await Applicants' submission of the Appeal Brief.

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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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Itaru Nishizawa	: DECISION ON REQUEST FOR
Patent Number	: 7644110	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,540	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **392** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Peacock Meyers, P.C.
201 Third Street, N.W.
Suite 1340
Albuquerque, NM 87102

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OFFICE OF PETITIONS

In re Application of	:	
Lois Roccato	:	
Application No. 11/359,552	:	DECISION ON PETITION
Filed: February 21, 2006	:	TO WITHDRAW
Attorney Docket No. 32028-1001	:	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 7, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Peacock Meyers, P.C. has been revoked by the applicant of the patent application on March 30, 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: **Lois Roccato**
1913 Lee Loop NE
Rio Rancho, NM 87144

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/22/2010

Applicant	: Sung-San Chang	: DECISION ON REQUEST FOR
Patent Number	: 7607144	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

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OFFICE OF PETITIONS

In re Application of :
Lance Douglas Pitt et al :
Application No. 11/359,583 : ON PETITION
Filed: February 23, 2006 :
Attorney Docket No. 20-865 :

This is a decision on the petition, filed July 12, 2007 and resubmitted on July 16, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of the filing of a continuing application under 37 CFR 1.53(b), as stated in the above petitions.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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2000 M STREET, N.W.
WASHINGTON DC 20036-3307

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MAR 04 2008

In re Application of	:	
Chris Knotts	:	
Application No. 11/359,586	:	DECISION GRANTING PETITION
Filed: February 23, 2006	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 20-866	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed March 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 7, 2010

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11359601
Patent No.: 7313967

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 – 9D40-C
Palm Location 7580

_____
Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

[signature] **SPE** 2855 **Art Unit**

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OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of :

ALSTAD, Kent et al. :
Application No. 11/359,637 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. **24934-10830** : FROM RECORD

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 19, 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 Michael W. Farn on behalf of all attorneys of record who are associated with customer No. 0758. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KENT ALSTAD**
15759 - 106A AVENUE
SURREY, BC V4N 1K7
CANADA

cc: **AMIR H. RAUBVOGEL, ATTORNEY AT LAW**
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/359,637	02/21/2006	Kent Alstad	24934-10830

CONFIRMATION NO. 7696

OC000000025715365

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Edson

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Jochen FRENSCH :
Application No. 11/359,649 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. 11336/1280 (P040490US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

The request cannot be approved because the attorneys of record were not appointed by Customer Number 81166, as indicated.

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: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL
INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHDRIDGE, CA 91329

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WOODARD EMHARDT MORIARTY MCNETT & HENRY
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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JUN 22 2006

OFFICE OF PETITIONS

In re Application of	:	
John Kummings	:	
Application No. 11/359,652	:	DECISION ON PETITION
Filed: February 22, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 9159-3	:	37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 22, 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 John Kummings 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 3611 for action on the merits commensurate with this decision.

Wan Laymon
Petitions Examiner
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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OCT 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Jeffrey S. Bauer, et al. :
Application No. 11/359,666 : DECISION GRANTING PETITION
Filed: February 21, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7772-67551-01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Date : October 30, 2008

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 11/359,666**

Applicant(s) : Jeffrey S. Bauer, et al.
Application No. : 11/359,666
Filed : February 21, 2006

The above-identified application has been assigned Patent No. 7,449,344 and an issue date of November 11, 2008.

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 November 11, 2008:

"All reference to Patent No. 7,449,344 to Jeffrey S. Bauer, et al. of California for POSITIVE DETECTION LATERAL-FLOW APPARATUS AND METHOD FOR SMALL AND LARGE ANALYTES appearing in the Official Gazette of November 11, 2008 should be deleted since no patent was granted."

/April M. Wise/
April M. Wise
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
Lamont Fletcher

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/21/2010

Applicant	: Xiang Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7616807	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Christian Dujarric	: DECISION ON REQUEST FOR
Patent Number	: 7603842	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **896** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/359,695	02/22/2006	1615	565	6704-39	4	20	2

CONFIRMATION NO. 9952

UPDATED FILING RECEIPT

OC000000019455748

43463
RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH, FL 33401-6112

Date Mailed: 06/30/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Chris Stephens, Knoxville, TN;
Peter Gregory Engleman, Knoxville, TN;
Roberto Benson, Knoxville, TN;

Assignment For Published Patent Application

University of Tennessee Research Foundation

Power of Attorney: The patent practitioners associated with Customer Number **43463**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/655,177 02/22/2005
and claims benefit of 60/715,416 09/09/2005

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/359,695

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Polymeric microstructures

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Elizabeth Eileen Desmond	: DECISION ON REQUEST FOR
Patent Number	: 7597106	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,716	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Roland Sacks :
Application No. 11/359,717 : DECISION ON REQUEST FOR
Filed: February 22, 2006 : REVOCATION OF POWER
Attorney Docket No. 3254.010.1 : OF ATTORNEY

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 28, 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 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

ROBERT M. SCHWATZ, PA
2445 HOLLYWOOD BOULEVARD
HOLLYWOOD FL 33020

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BOEING MANAGEMENT COMPANY
P. O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey M. Roach et al :
Application No. 11/359,740 : DECISION GRANTING PETITION
Filed: February 22, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7784-000895/US :

This is a decision on the petition, filed July 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 23, 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 2863 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\july10\359740.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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Alan R. Fritzberg	: DECISION ON REQUEST FOR
Patent Number	: 7605239	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,744	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **243** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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NOV 02 2006

OFFICE OF PETITIONS

In re Application of Danny Ben Shitrit Application No.11/359,750 Filed: February 23, 2006 Attorney Docket Number: 06975-658001/05-0011 Title: Configuring Output on a Communication Device	:	DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(a), filed August 23, 2006. This petition is properly treated under 37 CFR §1.47(b) when all inventors have refused to execute the application papers.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on February 23, 2006, without an executed oath or declaration, and naming Danny Ben Shitrit as the sole inventor. Accordingly, on March 23, 2006, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration and a declaration. To make timely a three month extension of time was submitted

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (2), (4), (5), and (6). The petition fee is $200.00. Pursuant to petitioner's request, deposit account 06-1050 will be charged the $70.00 difference.

An Acceptable Oath or Declaration

As to item (2), applicant failed to submit a properly executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Petitioner has failed to present an oath or declaration or ADS which contains the mailing address of non-signing inventor pursuant to 37 CFR 1.63 (c)(1).

Statement of Last Known Address

As to item (4), applicant has failed to provide the last known address of the non-signing inventor in the petition. The city and country alone is not sufficient.

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to 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). See MPEP 409.03(f).

Petitioner has provided a Confidentiality/ Non-Competition/Proprietary Rights Agreement. 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. Petitioner has failed to establish the invention was made while non-signing inventor was an employee.

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Danny Ben Shitrit
Application No. 11/359,750
Filed: February 23, 2006
Attorney Docket Number: 06975-658001/05-0011

Title of Invention: Configuring Output On A Communication Device

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed March 2, 2007.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventors have refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Proprietary interest in the application has been established.

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

It should further be noted the Notice of Abandonment mailed on February 6, 2007 was mailed prematurely. Petitioner was provided with a an extendable two month period of reply pursuant to 37 CFR 1.136. Petitioner could have purchased a maximum of five months time. Accordingly, the request for reconsideration is timely.

The application file is being forwarded to the Office of Initial Patent Examination for processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Danny Ben Shitrit
P.O. Box 58161
Kiryat Atidim, Building 2
5th Floor
Tel Aviv 61580
Israel

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Danny Ben Shitrit
Application No. 11/359,750
Filed: February 23, 2006
Attorney Docket Number: 06975-658001/05-0011

Title of Invention: Configuring Output On A Communication Device

LETTER

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APR 16 2007

OFFICE OF PETITIONS

Dear Mr. Shitrit:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022
ATTN: Gabriel D. Olander

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.
11/359,751	02/23/2006	Jeffrey C. Burnham	8108.002.US	7555

69911 7590 12/04/2009

REMENICK PLLC
1025 THOMAS JEFFERSON STREET, NW
WASHINGTON, DC 20007

EXAMINER	
SMITH, JENNIFER A	

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
12/04/2009	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.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: DEC 04 2009

In re application of :
Burnham : DECISION ON
Serial No. 11/359,751 : PETITION
Filed: February 23, 2006 :
For: MANUFACTURING OF BIOORGANIC-AUGMENTED HIGH NITROGEN-CONTAINING INORGANIC FERTILIZER

The Power of Attorney filed 08/13/2009 is not accepted because the Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

The RCE request filed on October 29, 2008 has been vacated.

/William Krynski/
William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Drinker Biddle & Reath LLP
Intellectual Property Group
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103

REMENICK PLLC
1025 THOMAS JEFFERSON STREET, NW
WASHINGTON DC 20007

Please mail to this address

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Vera, et al. : DECISION ON PETITION
Application No. 11/359,769 :
Filed: February 23, 2006 :
For: 56298,1541 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice to File Missing Parts of Provisional Application mailed March 28, 2006. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEP 16 2008

KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

In re Application of :
PORCO, Elliott :
Application No. 11/359,812 : DECISION ON PETITION TO
Filed: February 22, 2006 : WITHDRAW FROM RECORD
Attorney Docket No. 161/113 :
:

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 8, 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 Michael R. Gilman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Elliott Porco at the address indicated below.

There is an outstanding Office action mailed August 20, 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: ELLIOTT PORCO
NOVA RESOLUTION INDUSTRIES, INC.
P.O. BOX 240
BRONX, NY 10461

UNITED STATES PATENT AND TRADEMARK OFFICE

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/14/2010

Applicant	: Sandor Ludmann	: DECISION ON REQUEST FOR
Patent Number	: 7627832	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/359,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **677** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Anuj Bellare	: DECISION ON REQUEST FOR
Patent Number	: 7635725	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Mahesh Subramanian	: DECISION ON REQUEST FOR
Patent Number	: 7659905	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/359,859	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

Mail Date: 04/21/2010

Applicant	: Bin Fan	: DECISION ON REQUEST FOR
Patent Number	: 7622265	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/359,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **656** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 12 2010

OFFICE OF PETITIONS

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

In re Application of :
Edward L. Bryan et al. :
Application No. 11/359,888 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. 1381/3/3/2 CIP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 1, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Gregory A. Hunt 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 above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4618

/Kimberly Inabinet/
Kimberly Inabinet
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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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, PC
919 CONGRESS AVENUE
SUITE 919
AUSTIN, TX 78701

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of :

Mark H. Springer :
Application No. 11/359,890 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. SPRG001US4 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 22, 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 **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April M. 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 3694 for action on the merits commensurate with this decision.

Dave Bucci

April M. Wise
Petitions Examiner
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/14/2010

Applicant	: Lianrui Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7646204	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/359,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **879** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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APR 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Pulido et al.	:	
Application No. 11/359,933	:	ON PETITION
Filed: February 22, 2006	:	
Attorney Docket No. TKCF-12802/08	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 16, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a signed Oath/Declaration and late surcharge; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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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DR. NICK C. PARKER
7805 ZOAR AVE
LUBBOCK, TX 79424

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of :
Parker et al. :
Application No. 11/359,935 : ON PETITION
Filed: February 23, 2006 :
Title: MODULAR AIR PURIFICATION SYSTEM :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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 above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 23, 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 above-identified application became abandoned on May 24, 2006. A Notice of Abandonment was mailed on November 29, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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.

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.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2). A petition under 37 CFR 1.137(b) for revival of an abandoned application due to an *unintentional delay* requires payment of the $750.00 petition fee.

A Petition under 37 CFR 1.181 to withdraw the holding of abandonment does not require a petition fee. However, a petition under 37 CFR 1.181 does require a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) of the previously mailed correspondence or a copy of the previously mailed correspondence bearing a certificate of mailing date in compliance with 37 CFR 1.8(b). Although petitioner has submitted the previously mailed correspondence with the instant petition, it does not have a certificate of mailing date.

Petitioner should either provide the $750.00 petition fee or the documents discussed above to revive the instant application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

DR. NICK C. PARKER
7805 ZOAR AVE
LUBBOCK, TX 79424

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Parker et al.	:	
Application No. 11/359,935	:	ON PETITION
Filed: February 23, 2006	:	
Title: MODULAR AIR PURIFICATION SYSTEM	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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CASH KLEMCHUK POWERS TAYLOR LLP
CAMPBELL CENTRE II
8150 NORTH CENTRAL EXPRESSWAY, SUITE 1575
DALLAS, TX 75206

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APR 18 2006

OFFICE OF PETITIONS

In re Application of :
David L. Nearly :
Application No. 11/359,954 : DECISION ON PETITION
Filed: February 22, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 0053.0005 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 22, 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 David L. Neary 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 3749 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 19 2010

OFFICE OF PETITIONS

JONATHAN P. O"BRIEN, PH.D.
HONIGMAN MILLER SCHWARTZ & COHN LLP
350 EAST MICHIGAN AVENUE
SUITE 300
KALAMAZOO MI 49007

In re Application :
Lewis R. Makings et al. :
Application No. 11/359,960 : DECISION ON APPLICATION
Filed: February 22, 006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **223306/04-128CIP/120356** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(b) filed June 7, 2010. Applicant requests that the determination of patent term adjustment be corrected from 63 to 351 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[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 two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[2] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

MAILED

OCT 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Reuven Battat et al	:	
Application No. 11/359,970	:	DECISION GRANTING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 063170.8389	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Foley & Lardner
2029 Century Park East
Suite 3500
Los Angeles, CA 90067

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of :

Alan David Somerfield et al. :
Application No. 11/359,992 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. 025004-0345 : FROM RECORD
:

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 6, 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 Ted R. Rittmaster 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 Alan David Somerfield at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Alan David Somerfield**
Interbath, Inc.
665 North Baldwin Park Blvd.
City of Industry, CA 91746

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/359,992	02/21/2006	Alan David Somerfield	025004-0345

CONFIRMATION NO. 8350

OC000000025630717

23392
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

Date Mailed: 08/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2007.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOCKE LORD BISSELL & LIDDELL LLP
ATTN: IP DOCKETING
THREE WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

MAILED

OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Arto Palin et al :
Application No. 11/360,004 : DECISION ON PETITION
Filed: February 23, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4208-4227US1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucel
Petition 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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LOCKE LORD BISSELL & LIDDELL LLP
ATTN: IP DOCKETING
THREE WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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DEC 28 2009

OFFICE OF PETITIONS

In re Application of
Arto Palin et al
Application No. 11/360,004
Filed: February 23, 2006
Attorney Docket No. 1004289.200US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 8, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 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
11/360,004	02/23/2006	3714	1350	1004289.200US	3	1

CONFIRMATION NO. 8308

CORRECTED FILING RECEIPT

85775
Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

Date Mailed: 12/23/2009

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)

Arto Palin, Viiala, FINLAND;
Mauri Honkanen, Tampere, FINLAND;
Jukka Reunamaki, Tampere, FINLAND;

Power of Attorney: The patent practitioners associated with Customer Number 27123

Domestic Priority data as claimed by applicant

This application is a CIP of 11/065,227 02/25/2005

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/360,004**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for VoIP over WLAN to Bluetooth headset using advanced eSCO scheduling

Preliminary Class

463

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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SHUMAKER & SIEFFERT, PA
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of :
Nobutaka Chiba, et al. :
Application No. 11/360,010 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. 1085-034US01 : FROM RECORD
:

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, 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, "application is being transferred to another law firm", 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 Associate Power of Attorney filed on June 14, 2006, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). See MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

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: YOUNG & BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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In re Application of	:	
Qing Chang, et. al.	:	
Application No. 11/360,014	:	DECISION ON PETITION
Filed: February 22, 2006	:	
Attorney Docket No. GP-307626-RD-KAM	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of May 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 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 an amendment that prima facie places the application in condition for allowance; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2121 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Cumming et al.	:	
Application No. 11/360,019	:	ON PETITION
Filed: February 21, 2006	:	
Attorney Docket No. 13533.4063	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 22, 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, J. Stuart Cumming. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3731 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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3/10/09

Patent No. : 7,477,396
Ser. No. : 11/360,031
Inventor(s) : Nigel P. Smith, et. al.
Issued : January 13, 2009
Title : METHODS AND SYSTEMS FOR DETERMINING OVERLAY ERROR BASED ON TARGET IMAGE SYMMETRY
Docket No. : 42700.8019.US01

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Silicon valley Patent Group LLP
18805 Cox Avenue, Suite 220
Saratoga, CA 95070

ej

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OFFICE OF PETITIONS

SILICON VALLEY PATENT GROUP LLP
18805 COX AVENUE
SUITE 220
SARATOGA, CA 95070

In re Patent No. 7,477,396 :
Issue Date: January 13, 2009 :
Application No. 11/360,031 : ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 42700.8019.US01 :

This is a decision on the petition filed March 30, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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.

Petitioner states that the assignment was recorded prior to issuance and has provided a request for a certificate of correction under § 1.323, including the fee required by § 1.20(a); however, it is noted that the processing fee set forth in § 1.17(i) has not been paid. The $130 processing fee is being charged to counsel's deposit account as authorized. Accordingly, the request complies with the provisions of 37 CFR 3.81(b).

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: Robert E. Cree	: DECISION ON REQUEST FOR
Patent Number	: 7568899	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,035	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **473** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center,
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Eugeny Lukhtanov et al. :
Application No. 11/360,040 : DECISION ON PETITION
Filed: February 21, 2006 : TO WITHDRAW
Attorney Docket No. 17682A-008820US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 2009.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on October 27, 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jackson Walker, LLP
901 Main Street
Suite 6000
Dallas, TX 75202-3797

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BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON, TX 77002-2716

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Fu-Yung LIN, et al :
Application No. 11/360,041 : DECISION ON PETITION
Filed: February 23, 2006 : TO WITHDRAW
Attorney Docket No. ALFRED-003-02 : 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 August 12, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Baker & McKenzie, LLP has been revoked by the assignee of the patent application on September 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CHING-YUAN LEE
6F, NO.6, SEC. 1, JUNGSHING RD.
WUGU SHIANG, TAIPEI COUNTY 248
TAIWAN R.O.C.

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JUN 12 2007

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :
Kevin Threlkeld
Serial No.: 11/360,054
Filed: February 23, 2006
Attorney Docket No.: S06-WW152330

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 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 May 7, 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.

However, no such attachment has been and/or was received on May 7, 2007. Therefore, no information can be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition and attachment and 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

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JAN 10 2008

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of
Threlkeld et al.
Serial No.: 11/360,055
Filed: February 23, 2006
Attorney Docket No.: S06-WW013107

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 10, 2007, to expunge information from the above identified application. This application has 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 June 26, 2007 and September 7, 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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JAN 10 2008

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of
Threlkeld et al.
Serial No.: 11/360,056
Filed: February 23, 2006
Attorney Docket No.: S06-MO59029

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 10, 2007, to expunge information from the above identified application. This application has 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 June 13, 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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JUN 12 2007

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DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :
Kevin Threlkeid
Serial No.: 11/360,057
Filed: February 23, 2006
Attorney Docket No.: S06-WW169267

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 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 May 7, 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

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JAN 04 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

In re Application of:
Elliot D. Light, et al.
Application No. 11/360,061
Filed: February 23, 2006
For: **ELECTRONIC TETHER FOR PORTABLE OBJECTS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Supplemental petition filed May 26, 2006 under MPEP§708.02,VIII requesting accelerated examination. Applicant requested that the May 26, 2006 petition replace the earlier petition filed May 2, 2006.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission is deficient in that it does not comply with (6) above. It is noted that the petition complies with (5) above in that petitioner states in part B. of the petition that the references deemed most closely related to the subject matter of the claims are of record. Furthermore, a review of the Information Disclosure Statement and PTO-1449 filed May 2, 2006 finds fifty-five US patent documents and three non-patent literature documents have been listed. However, in part C. of the petition, only fourteen of the fifty-eight cited references are discussed in relation to independent claim 1. It appears that petitioner meant to discuss all of the cited references deemed most closely related to the claims. Nonetheless, there is no clear indication given specifically pointing out how the language of the claims of the instant application patentably distinguishes from any of the other cited references which have not been discussed. Furthermore, while petitioner has discussed fourteen of the references with respect to claim 1, the discussion lacks in discussing with particularity how the claimed subject matter of broader independent claim 4 (for example) is patentable over the cited references.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by providing a complete discussion of all fifty-eight references most closely related to the subject matter encompassed by the independent claims and complying with item 6) 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
Quality Assurance Specialist
Technology Center 2600
Communications

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ALLEGHENY TECHNOLOGIES
1000 SIX PPG PLACE
PITTSBURGH, PA 15222

Mail Date: 04/20/2010

Applicant	: R. Mark Davis	: DECISION ON REQUEST FOR
Patent Number	: 7611592	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: 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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ROCKWELL AUTOMATION
for Turocy & Watson LLP
1201 SOUTH SECOND STREET
E-7F19
MILWAUKEE, WI 53204

Mail Date: 04/20/2010

Applicant	: Derek W. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7616095	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **915** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: James S. Clarke	: DECISION ON REQUEST FOR
Patent Number	: 7595555	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **775** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO, CA 94303

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In re Application of :
Wen-Hung Hu :
Application No. 11/360,099 : ON PETITION
Filed: February 22, 2006 :
Attorney Docket No. 23870US/3791P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 29, 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 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) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2891 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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101 COLUMBIA ROAD
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MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of
David G. Parker et al.
Application No. 11/360,102
Filed: February 23, 2006
Attorney Docket Number: **H0011392-0760**

: DECISION ON PETITION

This is a decision on the petition 37 CFR 1.137(a)[1], filed February 12, 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 January 12, 2009 for failure to timely pay the issue fee on or before January 9, 2009. Accordingly, a Notice of Abandonment was mailed February 3, 2009.

Pursuant to 37 CFR 1.137(a) however, the instant petition lacks item (2) of the regulation. Effective October 2, 2008 the petition fee, for a small entity, was set at $270.00. Therefore, and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition fee has not been paid. The fees due are the fees set at the time the application file is revived.

---

[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©)).

In view thereof, a petition fee in the amount of $270.00, is due before a petition on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as the petition fee has been paid.

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

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
David G. Parker et al.
Application No. 11/360,102
Filed: February 23, 2006
Attorney Docket Number: **H0011392-0760**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed March 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 12, 2009 for failure to timely pay the issue fee on or before January 9, 2009. Accordingly, a Notice of Abandonment was mailed February 3, 2009.

In response to a Notice of Allowance mailed October 9, 2008, the issue fee transmittal was timely submitted on December 4, 2008, however the issue fee transmittal was not accompanied by a check for the fees and neither did it contain an authorization to charge the issue fee to a deposit account or credit card and thus the application became abandoned January 12, 2009. Accordingly a Notice of Abandonment was mailed February 3, 2009.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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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OFFICE OF PETITIONS

DARYL K. NEFF
4 EUGENE CIRCLE
LINCOLN PARK NJ 07035

In re Application of :
Richard J. Coppinger et al. :
Application No. 11/360,127 : ON PETITION
Filed: February 23, 2006 :
Attorney Docket No: POU920050066US1 :

This is a decision on the petition filed April 28, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 8, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became December 9, 2009. Accordingly, a Notice of Abandonment was mailed March 30, 2010.

This matter is being referred to Technology Center 2625 for appropriate action on the amendment filed April 28, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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JENNIFER J. RIEL
375 E. WARM SPRINGS ROAD
SUITE 104-23
LAS VEGAS, NV 89119

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OFFICE OF PETITIONS

In re Application of :
Ronald C, Matusek, et al. :
Application No. 11/360,130 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. RMAT-02P0 : FROM RECORD
:

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 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, "I terminated representing the applicant and concluded our attorney-client relationship", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD MATUSEK
PO BOX 37132
LAS VEGAS, NV 89137

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JENNIFER J. RIEL
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OFFICE OF PETITIONS

In re Application of :
Ronald C, Matusek, et al. :
Application No. 11/360,130 : DECISION ON PETITION
Filed: February 22, 2006 : TO WITHDRAW
Attorney Docket No. RMAT-02P0 : FROM RECORD

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 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, "I terminated representing the applicant and concluded our attorney-client relationship", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD MATUSEK
PO BOX 37132
LAS VEGAS, NV 89137

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BC: 22313145050 *0217-02426-02-41

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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

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OFFICE OF PETITIONS

In re Application of :
William Jordan et al :DECISION GRANTING FILING
Application No. 11/360,143 :DATE OF **FEBRUARY 23, 2006**
Filed: February 23, 2006 :
Attorney Docket No. 00725.0426-US-U1 :

This is a decision on the petition under 37 CFR 1.10, filed August 18, 2006, requesting that the above-identified application be accorded a filing date of February 23, 2006, rather than the presently accorded date of February 22, 2006.

Petitioner alleges that the date indicated in the Date-In field of the Express Mail label is incorrect. In support, petitioner has submitted a copy of the Express Mail Label No. EV619971057US showing a date stamp of February 23, 2006 by the USPS in Hopkins Mn. Additionally, the USPS Track & Confirm shows an acceptance date of February 23, 2006 in Hopkins MN for Label No. EV619971057US. The same Express Mail receipt number appears on the original " Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on **February 23, 2006.**

The petition is **granted**.

Petitioner should be aware that the copy of the Track & Confirm by the USPS submitted with the petition on August 18, 2006 refers to Label No. EV619971043US rather than Label No. EV619971057US.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of **February 23, 2006, and for the mailing of a corrected Filing Receipt.**

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

In re Application of :
Le, et al. :
Application No. 11/360,148 : ON PETITION
Filed: February 23, 2006 :
Attorney Docket No. PS/08-036 :

This is in response to the petition under 37 CFR 1.182, filed July 23, 2009.

Applicants have requested to correct the name of inventor Diana L. Wong to Diana L. Dutcher. Included was an affidavit from Dutcher, together with a copy of a marriage certificate..

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/360,148	02/23/2006	3763	500	PS/08-036	4	1

CONFIRMATION NO. 9128

CORRECTED FILING RECEIPT

21140
GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA, PA 15051

Date Mailed: 09/03/2009

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)

Hieu V. Le, Brooklyn Park, MN;
Michael P. Schrom, Wyoming Township, MN;
Diana L. Dutcher, New Brighton, MN;
Kyle R. Matson, Plymouth, MN;
Dean A. Swanson, Forest Lake, MN;
Kathleen C. Grant, Rogers, MN;
James T. Klee, Maple Grove, MN;

Assignment For Published Patent Application

Possis Medical, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 21140

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/360,148**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DUAL LUMEN ASPIRATION CATHETER SYSTEM

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).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Guimo Yang	: DECISION ON REQUEST FOR
Patent Number	: 7654539	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,152	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MERCHANT & GOULD, PC
PO BOX 2903
MINNEAPOLIS, MN 55402

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Donald G. Huber, et al. :
Application No. 11/360,156 : DECISION ON PETITION
Filed: February 23, 2006 : TO WITHDRAW
Attorney Docket No. SWIT1004 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Merchant & Gould, PC has been revoked by the applicants of the patent application on February 17, 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- 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: SCOTT BROWN
9252 NORTH FIREBRICK ROAD
FOUNTAIN HILLS, AZ 85268

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ROCKWELL AUTOMATION
for Turocy & Watson LLP
1201 SOUTH SECOND STREET
E-7F19
MILWAUKEE, WI 53204

Mail Date: 04/26/2010

Applicant	: James E. Dogul	: DECISION ON REQUEST FOR
Patent Number	: 7652759	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/360,174	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ROCKWELL AUTOMATION
for Turocy & Watson LLP
1201 SOUTH SECOND STREET
E-7F19
MILWAUKEE, WI 53204

Mail Date: 04/20/2010

Applicant	: George K. Schuster	: DECISION ON REQUEST FOR
Patent Number	: 7657814	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/360,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2006	: 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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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OFFICE OF PETITIONS

In re Application of :
Dobbs et al. :
Application No. 11/360,188 :
Filed: February 21, 2006 : ON PETITION
Attorney Docket Number: :
A-10332 :

This is a decision on the Petition Accompanying Reply to Notice of Missing Parts of Nonprovisional Application, filed May 11, 2006, requesting the application be accorded a filing date of February 21, 2006, including 1 sheet of drawing Figures described in the specification.

The petition is **granted**.

The application was filed on February 21, 2006. However, on March 22, 2006, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however, Figure 8a appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that nine (9) sheets of drawings were originally filed with the application on February 21, 2006, and was received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 9 sheets of drawings on February 21, 2006.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 9 sheets of

drawings on February 21, 2006. Petitioner has also re-submitted Figure 8a with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of Figure 8a filed with the petition will be used for examination purposes.

No petition fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of February 21, 2006, and an indication that nine (9) sheets of drawings were present on filing, using Figure 8a filed with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions