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OFFICE OF PETITIONS

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

In re Application of	:	
Kataoka	:	ON PETITION
Application No.: 11/434,516	:	
Filed: May 16, 2006	:	
Attorney Docket No.: 4825-13	:	

This decision is in response to the petition under 37 CFR 1.47(b), filed January 8, 2007.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 16, 2006. On June 8, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring applicants to submit various fees, an executed declaration, and a surcharge. On January 8, 2007, petitioners filed, *inter alia*, various fees, a request for a five month extension of time, a petition under 37 CFR 1.47(a) and a declaration signed by Shigeo Terashima, Group General Manager, Intellectual Property Group of Sharp Kabushiki Kaisha.

A statement of facts by Mr. Terashima accompanies the petition. Mr. Terashima states Sharp successfully mailed a copy of the application, an assignment, declaration and power of attorney documents to the non-signing inventor for their signature. The inventor did not return executed documents. The inventor has not returned numerous telephone messages left with family members and on his answering machine.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks items (2), and (5) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. It is noted that the sole inventor's mailing address is his former employer's address.

MPEP 605.03 states that, "Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address.... 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...."

An oath or declaration in compliance with 37 CFR 1.63 and 1.64, listing the inventor's home address, signed by an authorized representative of the Rule 1.47 applicants is REQUIRED.

As to item (5), Rule 47 petitioner failed to show or provide proof that Sharp Kabushiki Kaisha has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of pertinent parts of the employment agreement between the non-signing inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicants.

Petitioner has submitted $130.00 towards the $200.00 Rule 47(b) petition fee. Pursuant to petitioner's authorization, deposit account no. 14-1140 will be charged the $70.00 balance due.

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Kataoka	:	ON PETITION
Application No.: 11/434,516	:	
Filed: May 16, 2006	:	
Attorney Docket No.: 4825-13	:	

This decision is in response to the reconsideration petition under 37 CFR 1.47(b), filed September 21, 2007.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented.

Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. His last known home address is sufficient as the post office address. However, the declaration does not explicitly list his residence.

In addition, it is not clear that Makoto Ohashi, a manager at Sharp Kabushiki Kaisha's Patent Department, has authority to bind the corporation. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary or Treasurer) may sign the oath or declaration. If Mr. Ohashi is a registered practitioner, his registration number should be provided. Where an oath or declaration is being signed on behalf of an assignee, note MPEP Section 324, which, however, presupposes that an executed assignment by the inventor has been recorded, or submitted for recordation. A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64, signed by an authorized representative of the Rule 1.47 applicant is REQUIRED.

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

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

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

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In re Application of	:	
Kataoka	:	ON PETITION
Application No.: 11/434,516	:	
Filed: May 16, 2006	:	
Attorney Docket No.: 4825-13	:	

This decision is in response to the reconsideration petition under 37 CFR 1.47(b), filed May 29, 2008.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. 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 inventor. **Failure to respond will result in abandonment of the application.**

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks items (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented.

As stated in the prior decision of October 29, 2007: Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. His last known home address is sufficient as the post office address. However, **the declaration does not explicitly list his residence**.

In addition, the second declaration by Makoto Ohashi lists the sole inventor as **Singo** Kataoka. Up to this point, the sole inventor has been listed as **Shingo** Kataoka.

Please have Makoto Ohashi execute another declaration that addresses these two issues.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64, signed by an authorized representative of the Rule 1.47 applicant is REQUIRED.

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

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

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

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DEC 3 1 2008

In re Application of Kataoka Application No.: 11/434,516 Filed: May 16, 2006 Attorney Docket No.: 4825-13	: : : : :	ON PETITION

This decision is in response to the reconsideration petition under 37 CFR 1.47(b), filed December 15, 2008.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Shingo Kataoka, has constructively refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the application will be referred to Technology Center A.U. 2883 for examination in due course.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHINGO KATAOKA
1-4-10-413 HARAMACHIDA
MACHIDA-SHI, TOKYO
JAPAN 194-0013

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In re Application of
Kataoka
Application No.: 11/434,516
Filed: May 16, 2006
Attorney Docket No.: 4825-13

LETTER

Dear Mr. Kataoka:

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

As an 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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LAW OFFICES OF ALBERT WAI-KIT CHAN, LLC
WORLD PLAZA, SUITE 604
141-07 20TH AVENUE
WHITESTONE NY 11357

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of	:	
BAKHUTASHVILI, et al.	:	
Application No. 11/434,525	:	DECISION ON PETITION
Filed: May 15, 2006	:	TO WITHDRAW
Attorney Docket No. **768-D-PCT-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 April 30, 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 Albert Wai-kit Chan on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VLADIMER BAKHUTASHVILI**
49 A KAZBEGI AVENUE, APT 8
TBILISI, REPUBLIC OF GEORGIA

cc: **DR. JORDAN D. HALLER**
LAJOR BIOTECH, INC.
114 LINTEL DRIVE
MCMURRAY, PA 15317

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

LAW OFFICES OF ALBERT WAI-KIT CHAN, LLC
WORLD PLAZA, SUITE 604
141-07 20TH AVENUE
WHITETONE, NY 11357

In re Application of

BAKHUTASHVILI, et al.
Application No. 11/434,525
Filed: May 15, 2006
Attorney Docket No. **768-D-PCT-US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

CORRECTED DECISION

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, 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 Albert Wai-kit 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.

Please note that the declaration, as presented on October 12, 2006, is not in compliance with 37 CFR 1.63. While 37 CFR 1.63(d) does not require a newly executed declaration for a continuation or divisional application, a newly executed declaration is required in continuation-in-part application, such as the instant application. Furthermore, the declaration does not identify the application to which it is directed as set forth in 37 CFR 1.63(b)(1). A supplemental declaration pursuant to 37 CFR 1.67 must be submitted.

All future correspondence will be directed to the second named inventor Jordan D. Haller at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DR. JORDAN D. HALLER**
LAJOR BIOTECH, INC.
114 LINTEL DRIVE
MCMURRAY, PA 15317

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

LAW OFFICE OF JOHN C. MCMAHON
P.O. BOX 30069
KANSAS CITY, MO 64112

Mail Date: 04/21/2010

Applicant	: Alexander Joel Dickmann	: DECISION ON REQUEST FOR
Patent Number	: 7581657	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,531	: 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 **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.

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

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Min-Hyo Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7606661	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,532	: 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 **772** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SMYRSKI LAW GROUP
A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Lenny Lipton	:	
Application No. 11/434,535	:	DECISION ON PETITION
Filed: May 12, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. REAL0109	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 12, 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 Lenny Lipton 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 2873 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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SULLIVAN & WORCESTER LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of Komem et al. Application No. 11/434,550 Filed: May 15, 2006 Attorney Docket No. EFX-001CP Title: System and Method For Transactional Hedging	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed October 12, 2006 (October 10, 2006 certificate of mailing) under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

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

The above-identified application was filed on May 15, 2006, without an executed oath or declaration. Accordingly, on June 8, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 8, 2006.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, a partially executed declaration, and a two month extension of time to make the petition timely.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (4).

As to item (4), 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 inventors' most recent home addresses must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. Petitioner has provided a partial address. The address does not include the zip code. The complete last known address must be supplied in an executed declaration or application data sheet (ADS).

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 19 2007

OFFICE OF PETITIONS

SULLIVAN & WORCESTER LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Application of

Ofer Komem, Geoffrey David Klein, Gideon Argov, Gil Sarig and Benny Peer

Application No.11/434,550

Filed: May 15, 2006

Attorney Docket No. EFX-001CP

Title: System and Method For Transactional Hedging

DECISION

This is in response to the renewed petition under 37 CFR 1.47(a) filed January 22, 2007.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Komem 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. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Ofer Komem
1 Griva Dighentit
3035 Limasol, Cyprus
Greece

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OFFICE OF PETITIONS

In re Application of
Ofer Komem, Geoffrey David Klein, Gideon Argov, Gil Sarig and Benny Peer
Application No.11/434,550
Filed: May 15, 2006
Attorney Docket No. EFX-001CP
Title: System and Method For Transactional Hedging

: LETTER

Dear Mr. Komem:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SULLIVAN & WORCESTER LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109
ATTN: Diana M. Steel

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Kenneth S. Wheelock

Application No. 11434559

Filed: May 15,2006

Attorney Docket No. KSW-PROSE-003

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 18-SEP-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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

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OFFICE OF PETITIONS

In re Application of

MANOS, et al.
Application No. 11/434,574
Filed: May 10, 2006
Attorney Docket No. AFB00784

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 11, 2006.

The request is **NOT APPROVED**.

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

The 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, "[if] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "office function of attorney is being transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HERB HILL
506 NORTH 5TH STREET
SPEARFISH, SD 57783

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OFFICE OF PETITIONS

In re Application of
Herbert Alvin Hill
Application No. 11/434,597
Filed: May 15, 2006
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 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 Corrected Application Papers (Notice), mailed June 20, 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 August 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred back to the Office of Initial Patent Examination for processing of the reply received March 19, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW
DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-999

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OFFICE OF PETITIONS

In re Application of	:	
Ronald Willard BAKER et al.	:	
Application No. 11/434,600	:	DECISION ON PETITION
Filed: May 15, 2006	:	
Attorney Docket No. US 20600	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 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 May 26, 2009, as required by the Notice of Issue and Publication Fee(s) Due, mailed February 25, 2009. Accordingly, the date of abandonment of this application is May 26, 2009.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The extra payment of the issue and publication fee has been credited to your deposit account.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051 or in her absence David A. Bucci at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: JOHN V. PEZDEK
740 WEST NEW CIRCLE ROAD
LEXINGTON, KY 40550

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INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 06/18/2010

Applicant	: Ronald Willard Baker	: DECISION ON REQUEST FOR
Patent Number	: 7657213	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,600	: 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 **330** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Dale Malik et al.	:	
Application No. 11/434,612	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. 20009.0279US01 (BS05-0413)	:	FROM RECORD

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 7, 2009.

The request is **APPROVED**.

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

The request was signed by Jeramie J. Keys on behalf of attorney/agents of record. All attorneys/agents of record have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/434,612	05/16/2006	Dale Malik	20009.0279US01 (BS05-0413

CONFIRMATION NO. 4414

POWER OF ATTORNEY NOTICE

OC000000037334552

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 08/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2009.

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

/kainabinet/

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

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

Mail Date: 04/27/2010

Applicant	: Alain P. Vicari	: DECISION ON REQUEST FOR
Patent Number	: 7601815	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **488** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Manuel Lynch	:	
Application No. 11/434,663	:	DECISION REFUSING STATUS
Filed: May 15, 2006	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. PERMLT.056A	:	
For: **LED-BASED LUMINAIRE**		

This is a decision on the petition under 37 CFR 1.47(b), filed November 1, 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 May 15, 2006, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 19, 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 November 1, 2006, responsively, along with a request for an extension of time within the third month.

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

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

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

(3) the petition fee,

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

(5) proof of proprietary interest, and

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

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

A declaration signed by the assignee cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the *Manual of Patent Examining Procedure* cites 37 CFR 3.71(c) which states that, "[a]n 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." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

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 22313-1454

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96

PTO/SB/96 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

Entitled:

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

states that it is:

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

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

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

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

OR

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

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

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

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

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

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

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

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

Signature	Date
Printed or Typed Name	Telephone Number
Title	

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

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Daniel A. Nyhus	: DECISION ON REQUEST FOR
Patent Number	: 7600711	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,676	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **585** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No.

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

Irving M. Fishman
Cohen Tauber Spievack & Wagner
Suite 2400
420 Lexington Avenue
New York NY 10170

In re Application of :
Barbara Brooke Jennings-Spring: DECISION ON PETITION
Application No. 11/434,689 :
Filed: May 16, 2006 :
Attorney Docket No. 116.059 :
Title: BODY OR PLANT PART :
DRESSING :

This is in response to the petition filed on August 27, 2009, pursuant to 37 C.F.R. § 1.182, requesting the change of the name of the sole inventor. Specifically, Petitioner has requested that the sole inventor be changed from "Barbara L. Jennings-Spring to "Barbara Brooke Jennings-Spring."

This petition is **GRANTED**.

With this petition, Petitioner has included an executed Supplemental Application Data Sheet (ADS) and the petition fee. Petitioner has further included a statement from the inventor that has been signed in both forms of the inventor's name, averring one to be the incorrect version of her name and the other to be the correct version of her name.

It is noted that the supplemental ADS cannot be entered, as it has not been properly titled as such.[1] Petitioner should submit an executed Supplemental ADS that is properly titled.

[1] Pursuant to MPEP § 601.05, any ADS that is submitted to "correct, modify, or augment the original application data, the ADS, even though it is the first-filed ADS, must be titled "Supplemental Application Data Sheet."

The inventor's name has been changed in the records of the Office to Barbara Brooke Jennings-Spring.

A corrected filing receipt has been included with this decision.

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Corrected Filing Receipt

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/434,689	05/16/2006	3761	865	116.059	9	1

CONFIRMATION NO. 4340

CORRECTED FILING RECEIPT

OC000000039115631

Irving M. Fishman
Cohen Tauber Spievack & Wagner
Suite 2400
420 Lexington Avenue
New York, NY 10170

Date Mailed: 12/07/2009

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)

Barbara Brooke Jennings-Spring, Jupiter, FL;

Power of Attorney:
Irving Fishman--30258

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/434,689**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

BODY OR PLANT PART DRESSING

Preliminary Class

602

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

MAILED

AUG 12 2009

OFFICE OF PETITIONS

In re Application of	:	
John Ruckart et al.	:	
Application No. 11/434,696	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. 20009.0275US01 (05-0348)	:	FROM RECORD
	:	

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 7, 2009.

The request is **APPROVED**.

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

The request was signed by Jeramie J. Keys on behalf of attorney/agents of record. All attorneys/agents of record have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/434,696	05/16/2006	John Ruckart	20009.0275US01 (BS05-0348

CONFIRMATION NO. 4332

POWER OF ATTORNEY NOTICE

OC000000037334590

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 08/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2009.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 19 2007

OFFICE OF PETITIONS

JOHN WILEY HORTON
215 South Monroe Street
2nd Floor
Tallahassee FL. 32301

In re Application of	:	
John T. Sims	:	
Application No. 11/434,699	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 06-0313-TSI.RA	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(i) and (ii), filed May 16, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P §708.02, Section V, and (b) materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(i) and MPEP § 708.02, Section V: Environment 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 argues that the invention contributes to the reduction of airborne pollutants by facilitating the change from oil-based fuels to ethanol. The instant petition fails to show the invention meets the materiality standard. Possible future use of the invention as the means of switching from one fuel source to another does not contribute to the restoration or maintenance of basic life-sustaining natural elements, where the invention permits continued use of gasoline, an oil-based fuel source. Options for other fuel sources, does not enhance the quality of the environment in a manner as to meet the materiality standard required.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

Petitioner submits that the instant invention is directed to improvement in the conservation of energy resources by allowing the optional conversion to alcohol fuels. The instant petition fails to explain how the instant invention contributes in a significant, substantial or noticeable manner to conservation of energy. Recognition of means to vary compression ratios, permitting the optional use of different fuel sources does not establish any development within the parameters of category (A). No increased efficiency has been demonstrated for the claimed invention. Regarding consideration of the petition for category (B), petitioner has not established that knowledge of a user on how to use various fuel sources, including, oil-based derivatives, results in any decrease in energy use or consumption as a direct response to the said knowledge and as a result of efforts accruing from the claimed invention. The fact that an energy user would have the option to avoid oil-based fuel sources is not persuasive since this alone is too speculative as to establish any energy use reduction. Accordingly, it is unclear as to how the claimed invention would materially contribute to category (A) or (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 FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

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 3747 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 04 2010

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

In re Application of	:	
K. Michael Chen	:	
Application No. 11/434,706	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. 125225.00002	:	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 11, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Ann E. Rabe and attorneys/agents associated with customer number 26710: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Our records indicate that the oath and declaration filed on May 16, 2006 directed all correspondence to be forwarded to the address associated with customer number 26710, no power of attorney was filed. All future correspondence will be mailed to the address noted on the petition.

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: K. Michael Chen
W8197 Dumke Road
Portage, WI 53901

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/26/2010

Applicant	: Philip F. Halloran	: DECISION ON REQUEST FOR
Patent Number	: 7666596	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,711	: 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 **284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/434,714	05/17/2006	Joong-kil Kwon	0005.1107	4713

7590 12/17/2008
STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER
COLES, EDWARD L

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
12/17/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
12/17/2008 0030064678

Credit Card Refund Total: $700.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 12/17/2008 NFARMER
05/18/2006 FMETEKI1 00000013 11434714
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/434,731	05/17/2006	Bruno Biatry	128001

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

DATE MAILED: March 26, 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 February 5, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAR 12 2009

Cooley Godward Kronish, LLP
Attn: Patent Group
777 6th Street, NW
Suite 1100
Washington DC 20001

In re Application of:
Barry J. Nagle
Serial No.: 11/434,750
Filed: May 17, 2006
Attorney Docket No.: **NATI-006/01US**
306508-2011

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed March 9, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 9, 2009, 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**. Petitioner 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
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 03 2009

Cooley Godward Kronish, LLP
Attn: Patent Group
777 6th Street, NW
Suite 1100
Washington DC 20001

In re Application of:
Barry J. Nagle
Serial No.: 11/434,750
Filed: May 17, 2006
Attorney Docket No.: **NATI-006/01US**
306508-2011

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 22, 2009, 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 March 9, 2009 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, petitioner'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
Technology Center 1600

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Cooley Godward Kronish, LLP
Attn: Patent Group
777 6th Street, NW
Suite 1100
Washington, DC 20001

Mail Date: 04/21/2010

Applicant	: Barry J. Nagle	: DECISION ON REQUEST FOR
Patent Number	: 7598436	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,750	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **431** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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SEP 24 2007
OFFICE OF PETITIONS

In re Application of	:	
Togino	:	DECISION ON PETITION
Application No. 11/434,751	:	
Filed: May 17, 2006	:	
Atty Docket No. 12219/96	:	

This is a decision on the Petition under 37 CFR 1.57, filed October 31, 2006, requesting that the above-referenced application be accorded a filing date of October 31, 2006.

Application papers in the above-identified application were filed on May 17, 2006. However, on September 1, 2006, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 USC 112. A review of the record also shows that petitioner seeks the acceptance of drawings as well.

In response, applicants timely filed this petition. In which, applicant contends a complete specification was submitted on filing. Applicants argue, however, that the filing date of May 17, 2006, should still be accorded pursuant to § 1.57(a)(3).

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, a claim under 1.78 for the benefit of a prior-filed provisional,

nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

It is noted that the application as filed included a declaration, with a claim under 1.55 for the benefit of prior-filed foreign Japanese application no. JP2005-153760 filed on May 26, 2005. Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior filed application as to the inadvertently omitted portion of the specification and drawings.

The instant petition includes a copy of the prior-filed Japanese application and a copy of the translated priority document, and along with authorization to charge the necessary petition fee.

In view of the incorporation by reference of the prior application, the specification and drawings supplied on October 31, 2006, would not constitute new matter if it were a part of the original disclosure of the prior application. Of course, the examiner is expected to compare the specification supplied on October 31, 2006, to the disclosure of prior Japanese application No. JP 2005-153760 in order to verify that it is an accurate copy of the prior specification and drawings and that it contains no new matter.

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

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of May 17, 2006**, including the copy of specification and drawings from the prior application supplied on October 31, 2006. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE. In addition, the applicant will be required to submit a new oath or declaration and surcharge, since the declaration filed on May 17, 2006 is defective because it identifies an attached specification and no specification was included on filing.

Telephone inquiries concerning this matter may be directed to the Charlema Grant at (571) 272-3215.

Charles A. Pearson
Director
Office of Petitions

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Commissioner for Patents
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of
GARST, Carey F. et al.
Application No. 11/434,758
Filed: May 17, 2006
Attorney Docket No. **063329-5001-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 September 25, 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, no longer represents the assignee, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MS. AMELIA L. DACRUZ**
1157 PARAMORE DRIVE
VIRGINIA BEACH, VA 23454

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WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of :

GARST, Carey F. et al. :
Application No. 11/434,758 : DECISION ON PETITION
Filed: May 17, 2006 : TO WITHDRAW
Attorney Docket No. **063329-5001-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 04, 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 Vicotor Balancia on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the second named inventor Ameila DaDruz at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AMEILA DACRUZ**
1157 PARAMORE DRIVE
VIRGINIA BEACH, VA 23454

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PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Jesse, et al.	:	
Application No. 11/434,765	:	ON PETITION
Filed: NO FILING DATE ACCORDED	:	
Attorney Docket No.: 49980-008US	:	

This is regarding the "Communication Re Notice of Incomplete Non-Provisional Application Mailed in Error", filed November 22, 2006. The communication will be treated as a petition under 37 CFR 1.53 to accord the application a filing date.

The petition is **dismissed without prejudice**.

On May 17, 2006, the above-identified application was deposited with the USPTO. However, on July 20, 2006, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that application had not been accorded a filing date and setting a non-extendable period for reply of two months from its mailing date. The Notice indicated that the drawings were not found with the original application papers, that an executed oath or declaration was required, and that the requirements of 37 CFR 1.821 were not satisfied. A response was not filed within the allowable period and the application became abandoned on September 21, 2006. A Notice of Abandonment was mailed on November 6, 2006.

Petitioner is advised that the application is properly in an abandoned status because no response to the Notice of Incomplete Nonprovisional Application was filed. Petitioner was required to provided a timely response to the Notice of Incomplete Nonprovisional Application regardless of whether petitioner believed that the Notice of Incomplete Nonprovisional Application was proper. Before a determination can be made as to the filing date accorded the application, petitioner must file a petition to revive the application pursuant to 37 CFR 1.137. After the application is returned to a pending status, a petition can be filed to accord the application a filing date of May 17, 2006, based on timely receipt of the drawings.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

In re Application of	:	
Jesse, et al.	:	
Application No. 11/434,765	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	
Attorney Docket No. 49980-008US	:	

This is a decision on the petition under 37 CFR 1.137(b) filed May 16, 2007. The petition is also being treated as a renewed petition under 37 CFR 1.53 to accord the application a filing date of May 17, 2006.

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

The petition under 37 CFR 1.53 is also **granted.**

On May 17, 2006, the above-identified application was filed. On July 26, 2006, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because no drawings were found on filing, but were believed to be required to understand the invention claimed. The Notice also required a proper oath or declaration and sequence listing to be filed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice. A response was not received within the allowable period and the application became abandoned on July 18, 2006. A notice to this effect was mailed on November 6, 2006.

The record reflects that a petition to accord the application a filing date of May 17, 2006, was filed on November 22, 2006. The petition was dismissed, without prejudice, on April 30, 2007, because the application was in an abandoned status. The decision required revival of the application before a decision on the filing date would be made.

In response, on May 16, 2007, applicants filed the petition under 37 CFR 1.137(b) which is granted. The petition under 37 CFR 1.137(b) is also being treated as a renewed petition under 37 CFR 1.53 to accord the application a filing date of May 17, 2006. It is noted that a copy of an Office date-stamped postcard, was filed on November 22, 2006, showing that, among other items, nine sheets of drawings were received on May 17, 2006.

Upon review of the record, drawings have not been located among the original application papers. However, the evidence is convincing that the application papers deposited May 17, 2006, included nine sheets of drawings, which were subsequently misplaced by the Office. Therefore, the application, including the nine sheets of drawings was complete on filing and entitled to the filing date of May 17, 2006.

Accordingly, the petition is granted. Deposit account 50-3840 will be refunded the petition fee of $400.00

The application file is being returned to the Office of Initial Patent Examination for further processing with the filing date of May 17, 2006. The Office of Initial Patent Examination is directed to issue a corrected filing receipt, accordingly.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No.

Clifford Mark Fogelberg
1960 GRAND AVE #19
SAN DIEGO CA 92109-4507

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OFFICE OF PETITIONS

In re Application of	:	
Clifford Mark Fogelberg	:	
Application No. 11/434,774	:	DECISION ON PETITION
Filed: May 17, 2006	:	PURSUANT TO
Title: MOUTHWASH DISPENSER	:	37 C.F.R. § 1.137(A)

This is a decision on the petition filed September 29, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 3, 2007, which set a shortened statutory period for reply of three months. The mailing was addressed to "Clifford Mark Fogelberg, 12373 RIOS ROAD, SAN DIEGO, CA, 92128-2818," and was returned to the Office on July 17, 2007 with a forwarding label. The label contains the indication "notify sender of new address," and it contains the address "Clifford Mark Fogelberg, 1960 GRAND AVE #19, SAN DIEGO, CA, 92109-4507." A copy of the non-final Office action - which reset the period for response - was mailed on July 27, 2007 to this address, and it was returned on August 6, 2007 with a notation "no such address - unable to forward." No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned

on October 28, 2007. A notice of abandonment was mailed on May 30, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.33(a) sets forth, *in pertinent part*:

Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address (emphasis added).

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP § 601.03 sets forth, *in pertinent part*:

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office (emphasis added) of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[1]

The burden of showing the cause of the delay is on the person seeking to revive the application.[2]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4]

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 either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action.[5]

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.

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1 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

2 Id.

3 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

4 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

5 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

> In re Mattullath, 38 App. D.C. at (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).

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[6]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7]

ANALYSIS

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included the petition fee. Petitioner has met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the **first requirement of Rule 1.137(a)**, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[8] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, a response to the non-final Office action of July 3, 2007).

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6 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
8 See M.P.E.P. § 711.03(c).

A copy of the non-final Office action of July 3, 2007 has been included with this decision.

Regarding the third requirement of Rule 1.137(a), it has not been established that the entire period of delay was unavoidable.

Petitioner's explanation of the entire period of delay is reproduced below, *in toto*:

> "I changed addresses and reported it and then I was in jail and the papers were returned."

The electronic file has been reviewed, and a request to change the correspondence address has not been located. As such, it does not appear at this time that such a request was filed with the Office. Rather, it appears that Petitioner changed residential/mailing addresses, and failed to notify the Office of this move, as is required by MPEP § 601.03, reproduced above.

The record does not support a finding that Petitioner submitted a timely change of address, and as such, it does not appear that his actions were consistent with a similarly situated man, acting in relation to his most important business.

On renewed petition, Petitioner should:

- Include a response to the non-final Office action of July 3, 2007;
- Provide documentation which evinces that a change of correspondence address was timely filed in the Office and provide a copy of the request;
- Provide documentation which both establishes that he was incarcerated and sets forth the dates of his incarceration, and;
- Explain why his incarceration is relevant to the abandonment of this application.

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. § 1.137(a)".

This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[9], hand-delivery[10], or facsimile[11]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[12].

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Alternatively, Applicant may also file a petition pursuant to 37 C.F.R. § 1.137(b), which carries with it a much lower standard. Applicant may download information about this petition here:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Applicant will note that a third option is to concurrently file both a renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the former petition is granted, the fee that is associated with the filing of the latter petition will be refunded to Applicant.

On October 8, 2008, the undersigned contacted Petitioner and requested that he provide a current address. It is noted that the address given telephonically by Petitioner matches the address that appears on the declaration that was provided on filing. This address differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. **A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application.** For Petitioner's convenience, a blank Change of Correspondence Address, Patent

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9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
10 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
11 (571) 273-8300- please note this is a central facsimile number.
12 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[13].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Courtesy copy of the non-final Office action of July 3, 2007

Courtesy copy of the claims and drawing submitted on filing (per Petitioner's request during the telephonic conversation of October 8, 2008).

cc: Clifford Mark Fogelberg
12373 Rios Road
San Diego, CA 92128-2818

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/434,774	05/17/2006	Clifford Mark Fogelberg		4906

7590 07/03/2007
Clifford Mark Fogelberg
12373 Rios Road
San Diego, CA 92128-2818

EXAMINER
CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
3754	

MAIL DATE	DELIVERY MODE
07/03/2007	PAPER

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

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

Courtesy Copy

Office Action Summary	Application No.	Applicant(s)	
	11/434,774	FOGELBERG, CLIFFORD MARK	
	Examiner	Art Unit	
	Melvin A. Cartagena	3754	

-- 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 27 July 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 and 2 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 and 2 is/are rejected.

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

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

Application Papers

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

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim or claims must commence on a separate physical sheet or electronic page and should appear after the detailed description of the invention. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material. While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with "I (or we) claim," "The invention claimed is" (or the equivalent). If, at the time of allowance, the quoted terminology is not present, it is inserted by the Office of Patent Publication. Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See Fressola v. Manbeck, 36 USPQ2d 1211 (D.D.C. 1995). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

Claim Rejections - 35 USC § 102

3. 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.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,892,903 to Bartolotta.

Bartolotta shows a dispenser made of plastic as seen in Figs. 1, 3 and 6, having a base 14 with four legs, a spout 42 located on the base at a height from support surface that permits fitting a glass or cup under the spout, see column 2, lines 49-53.

In reference to the intended use limitation in claim 1 and 2, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bergtrom shows a liquid transfer for dispensing mouthwash, see column 5, lines 31-33. Maldon shows a dispenser for restrooms to dispense mouthwash. Gebrayel show a mouthwash dispenser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAC 6/25/07
MAC

KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

CLAIM 1
A DISPENSER AS DISCRIBED IN SPECIFICATIONS.
A DIPENSER TO DISPENSE MOUTHWASH.
ONE MADE OF PLASTIC.
RAISED ON FOUR LEGS.
IT WILL HAVE A SPOUT.
YOU CAN PUT EITHER A CUP OR GLASS UNDER THE SPOUT
OR A DIXIE CUP OR SIMALAR ITEM.

Present on filing

BEST AVAILABLE COPY

CLAIM 2
A DISPENSER FOR MOUTHWASH.
AS DESCRIBED IN SPECIFICATION.
ONE MADE OF PLASTIC OR GLASS.
RAISED ON FOUR LEGS.
IT WILL HAVE A SPOUT AS IN SPECIFICATION BUT MAY BE A SAFETY SPOUT.
IT WILL DISPENSE INTO RECEPTACLE OF OWNERS CHOOSING.

Present on filing

BEST AVAILABLE COPY

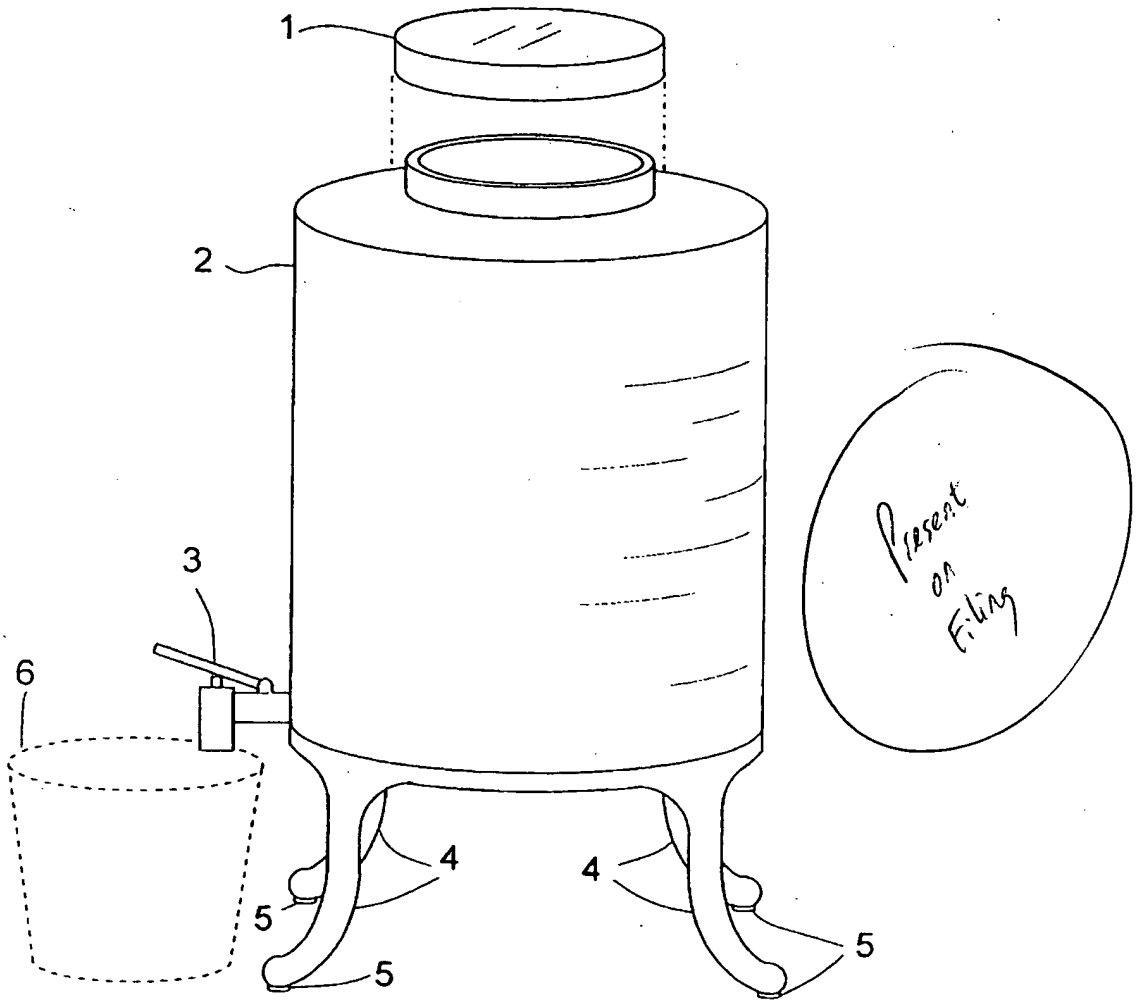

FIG. 1

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.

Clifford Mark Fogelberg
1960 GRAND AVE #19
SAN DIEGO CA 92109-4507

COPY MAILED

DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Clifford Mark Fogelberg	:	
Application No. 11/434,774	:	DECISION ON RENEWED
Filed: May 17, 2006	:	PETITION PURSUANT TO
Title: MOUTHWASH DISPENSER	:	37 C.F.R. § 1.137(A)

This is a decision on the renewed petition filed December 5, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This renewed petition is **DISMISSED**.

Receipt of the one-month extension of time, so as to make timely this submission, is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 3, 2007, which set a shortened statutory period for reply of three months. The mailing was addressed to "Clifford Mark Fogelberg, 12373 RIOS ROAD, SAN DIEGO, CA, 92128-2818," and was returned to the Office on July 17, 2007 with a forwarding label. The label contains the indication "notify sender of new address," and it contains the address "Clifford Mark Fogelberg, 1960 GRAND AVE #19, SAN DIEGO, CA, 92109-4507." A copy of the non-final Office action - which reset the period for response - was mailed on July 27, 2007 to this address, and it was returned on August 6, 2007 with a notation "no such address - unable to

forward." No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 28, 2007. A notice of abandonment was mailed on May 30, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.33(a) sets forth, *in pertinent part*:

Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address (emphasis added).

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP § 601.03 sets forth, *in pertinent part*:

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office (emphasis added) of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A

change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[1]

The burden of showing the cause of the delay is on the person seeking to revive the application.[2]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4]

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. at (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),

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1 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

2 Id.

3 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

4 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[5]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[6]

PROCEDURAL HISTORY AND ANALYSIS

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

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

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on September 29, 2008, along with the petition fee and an indication that he "changed addresses and reported it and then I was in jail and the papers were returned."

The original petition was dismissed via the mailing of a decision on October 10, 2008, which indicated that Petitioner met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

With this renewed petition, Petitioner has provided a statement of facts, along with a document from the County of San Diego, Department of Probation.

Regarding the **first requirement of Rule 1.137(a)**, the requirement has not been satisfied because Petitioner has not submitted the required reply to the Office action. The required

5 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
6 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[7] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, a response to the non-final Office action of July 3, 2007). A copy of the non-final Office action was provided with the decision on the original petition, and with this renewed petition, Petitioner has indicated that he plans "to respond with the appropriate documentation as soon as possible." Petitioner will note that **the required reply is a necessary component of a grantable petition pursuant to Rule 1.137**, and as such, Petitioner has failed to meet the first requirement of Rule 1.137(a).

Regarding the third requirement of Rule 1.137(a), it has not been established that the entire period of delay was unavoidable.

The decision on the original petition indicated that Petitioner failed to notify the Office of his change of residential/mailing address, as is required by MPEP § 601.03, reproduced above. With this renewed petition, Petitioner has indicated that he telephoned the Office and orally notified an Office employee of his move, and this employee indicated "a verbal change of address would be enough." However, Petitioner will note that 37 C.F.R. § 1.2 requires that all business be conducted in writing. The rule states, *in toto*:

> 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.

Moreover, 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 either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action.[8]

The Office has in place a well-established and well-publicized method for effectuating a change of address in a patent application: the submission of form 122, as was discussed on pages 6-7 of the decision on the original petition. Pursuant to the discussion above, a correspondence address cannot be changed

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7 See M.P.E.P. § 711.03(c).

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

telephonically, and the failure to be aware of this cannot give rise to an unavoidable delay.

Regarding the document from the County of San Diego, Department of Probation, which evinces that he was incarcerated between the dates of April 16, 2008 and July 9, 2008, it is not clear why his incarceration is relevant to the abandonment of this application. It is noted that Petitioner has not asserted that he was unable to received mail while incarcerated, so it appears that during the period of his incarceration, he was in a position to have his official address changed to the County of San Diego, Department of Probation.

It is noted that to date, Petitioner has not submitted a change of correspondence address.

Finally, regarding the document from the County of San Diego, Department of Probation, Petitioner is cautioned to avoid submitting confidential information that may contribute to identity theft. Specifically, Petitioner should consider redacting social security, bank account, or credit card numbers from any documents submitted to the USPTO. This type of personal data is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted may be disclosed, as a routine use, to the public after either publication of the application, unless a non-publication request is made in the application, or issuance of a patent. Further, a record may be disclosed, subject to the limitations of 37 C.F.R. § 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.

If Petitioner has supplied papers that contain any of the above-identified confidential information that has not been redacted, Petitioner may provide a redacted copy of the same to the Office. If accompanied by a statement that the redacted version is identical to the originally submitted copy, but for the redactions, the redacted copy will be placed into the file and the original copy will be destroyed.

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 "Second Renewed Petition pursuant to 37 C.F.R. § 1.137(a)".

This is not a final agency action within the meaning of 5 U.S.C § 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[9] hand-delivery,[10] or facsimile.[11] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[12]

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Alternatively, Applicant may also file a petition pursuant to 37 C.F.R. § 1.137(b), which carries with it a much lower standard. Applicant may download information about this petition here:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Applicant will note that a third option is to concurrently file both a second renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the former petition is granted, the fee that is associated with the filing of the latter petition will be refunded to Applicant.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
10 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
11 (571) 273-8300- please note this is a central facsimile number.
12 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[13].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Clifford Mark Fogelberg
12373 Rios Road
San Diego, CA 92128-2818

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

COPY MAILED

JUN 01 2009

OFFICE OF PETITIONS

Clifford Mark Fogelberg
1960 GRAND AVE #19
SAN DIEGO CA 92109-4507

In re Application of	:	
Clifford Mark Fogelberg	:	
Application No. 11/434,774	:	DECISION ON SECOND RENEWED
Filed: May 17, 2006	:	PETITION PURSUANT TO
Title: MOUTHWASH DISPENSER	:	37 C.F.R. § 1.137(A)

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

This second renewed petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 3, 2007, which set a shortened statutory period for reply of three months. The mailing was addressed to "Clifford Mark Fogelberg, 12373 RIOS ROAD, SAN DIEGO, CA, 92128-2818," and was returned to the Office on July 17, 2007 with a forwarding label. The label contains the indication "notify sender of new address," and it contains the address "Clifford Mark Fogelberg, 1960 GRAND AVE #19, SAN DIEGO, CA, 92109-4507." A copy of the non-final Office action - which reset the period for response - was mailed on July 27, 2007 to this address, and it was returned on August 6, 2007 with a notation "no such address - unable to forward." No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned

on October 28, 2007. A notice of abandonment was mailed on May 30, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.33(a) sets forth, *in pertinent part*:

Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address (emphasis added).

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP § 601.03 sets forth, *in pertinent part*:

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office (emphasis added) of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay.[1]

The burden of showing the cause of the delay is on the person seeking to revive the application.[2]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4]

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. at (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).

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1 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

2 Id.

3 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

4 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[5]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[6]

PROCEDURAL HISTORY AND ANALYSIS

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

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

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on September 29, 2008, along with the petition fee and an indication that he "changed addresses and reported it and then [he] was in jail and the papers were returned."

The original petition was dismissed via the mailing of a decision on October 10, 2008, which indicated that Petitioner met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

A renewed petition was filed on December 5, 2008, and was dismissed via the mailing of a decision on December 31, 2008.

The previously-submitted one-month extension of time, received on December 12, 2008m was not necessary, and will be applied to the present submission, so as to make this second renewed petition timely.

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5 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
6 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

Regarding the **first requirement of Rule 1.137(a)**, the requirement has not been satisfied because Petitioner has not submitted the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[7] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, a response to the non-final Office action of July 3, 2007). A copy of the non-final Office action was provided with the decision on the original petition. Petitioner will note that **the required reply is a necessary component of a grantable petition pursuant to Rule 1.137**, and as such, Petitioner has failed to meet the first requirement of Rule 1.137(a).

Regarding the third requirement of Rule 1.137(a), it has not been established that the entire period of delay was unavoidable.

The decision on the original petition indicated that Petitioner failed to notify the Office of his change of residential/mailing address, as is required by MPEP § 601.03, reproduced above. With the renewed petition, Petitioner indicated that he telephoned the Office and orally notified an Office employee of his move. The decision on the renewed petition indicated that 37 C.F.R. § 1.2 requires that all business be conducted in writing, and further indicated that the Office has in place a well-established and well-publicized method for effectuating a change of address in a patent application: the submission of form PTO/SB/122, as was discussed on pages 6-7 of the decision on the original petition. The decision on the renewed petition indicated that a correspondence address cannot be changed telephonically, and the failure to be aware of this cannot give rise to an unavoidable delay.

It is noted that to date, Petitioner has not submitted a change of correspondence address.

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 "Third Renewed Petition pursuant to 37 C.F.R. § 1.137(a)".

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7 See M.P.E.P. § 711.03(c).

This is not a final agency action within the meaning of 5 U.S.C § 704.

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[8] hand-delivery,[9] or facsimile.[10] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[11]

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Along with the third renewed petition, Petitioner should include both a response to the non-final Office action of July 3, 2007 and an indication as to why the entire period of delay was unavoidable, *i.e.* and explanation as to what prevented Petitioner from both updating his correspondence address with the Office and submitting a response to the non-final Office action of July 3, 2007.

Alternatively, as it does not appear that Petitioner will be able to meet the unavoidable standard, he may wish to instead file a petition pursuant to 37 C.F.R. § 1.137(b), which carries with it a much lower standard. Applicant may download information about this petition here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent

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8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300- please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[12]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Mr. Clifford Fogelberg
12373 Rios Road
San Diego, CA 92128

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Clifford Mark Fogelberg
1960 GRAND AVE #19
SAN DIEGO CA 92109-4507

MAILED

FEB 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Clifford Mark Fogelberg	:	
Application No. 11/434,774	:	DECISION ON THIRD RENEWED
Filed: May 17, 2006	:	PETITION PURSUANT TO
Title: MOUTHWASH DISPENSER	:	37 C.F.R. § 1.137(A)

This is a decision on the third renewed petition filed July 31, 2009, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This third renewed petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 3, 2007, which set a shortened statutory period for reply of three months. The mailing was addressed to "Clifford Mark Fogelberg, 12373 RIOS ROAD, SAN DIEGO, CA, 92128-2818," and was returned to the Office on July 17, 2007 with a forwarding label. The label contains the indication "notify sender of new address," and it contains the address "Clifford Mark Fogelberg, 1960 GRAND AVE #19, SAN DIEGO, CA, 92109-4507." A copy of the non-final Office action - which reset the period for response - was mailed on July 27, 2007 to this address, and it was returned on August 6, 2007 with a notation "no such address - unable to forward." No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 28, 2007. A notice of abandonment was mailed on May 30, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.33(a) sets forth, *in pertinent part*:

Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address (emphasis added).

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

MPEP § 601.03 sets forth, *in pertinent part*:

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office (emphasis added) of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay.[1]

The burden of showing the cause of the delay is on the person seeking to revive the application.[2]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4]

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. at (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).

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1 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

2 Id.

3 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

4 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[5]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[6]

PROCEDURAL HISTORY AND ANALYSIS

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

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

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on September 29, 2008, and was dismissed via the mailing of a decision on October 10, 2008, which indicated that Petitioner met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

A renewed petition was filed on December 5, 2008, and was dismissed via the mailing of a decision on December 31, 2008.

A second renewed petition filed was filed on March 4, 2009. The one-month extension of time that was received on December 12, 2008 was applied to the second renewed petition, so as to make the second renewed petition timely. The second renewed petition was dismissed via the mailing of a decision on June 1, 2009.

Regarding the **first requirement of Rule 1.137(a)**, the requirement has not been satisfied because Petitioner has not submitted the required reply to the Office action with this third renewed petition. The required reply is the reply sufficient to have avoided abandonment, had such reply been

5 Haines v. Quigg, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
6 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

timely filed.[7] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, a response to the non-final Office action of July 3, 2007). A copy of the non-final Office action was provided with the decision on the original petition. Petitioner will note that **the required reply is a necessary component of a grantable petition pursuant to Rule 1.137**, and as such, Petitioner has failed to meet the first requirement of Rule 1.137(a).

This third renewed petition marks the fourth time that Petitioner has been informed of the need to submit a response to the non-final Office action of July 3, 2007.[8] **Any further failure to submit this required component of a grantable petition to revive may be considered evidence of intentional delay and an absolute bar to revival.**

Regarding the third requirement of Rule 1.137(a), with this third renewed petition it has not been established that the entire period of delay was unavoidable.

The decision on the second renewed petition indicated, *in pertinent part*:

> The decision on the original petition indicated that Petitioner failed to notify the Office of his change of residential/mailing address, as is required by MPEP § 601.03, reproduced above. With the renewed petition, Petitioner indicated that he telephoned the Office and orally notified an Office employee of his move. The decision on the renewed petition indicated that 37 C.F.R. § 1.2 requires that all business be conducted in writing, and further indicated that the Office has in place a well-established and well-publicized method for effectuating a change of address in a patent application: the submission of form PTO/SB/122, as was discussed on pages 6-7 of the decision on the original petition. The decision on the renewed petition indicated that a correspondence address cannot be changed telephonically, and the failure to be aware of this cannot give rise to an unavoidable delay.
>
> It is noted that to date, Petitioner has not submitted a change of correspondence address.
>
> Decision on second renewed petition, page 5.

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7 See M.P.E.P. § 711.03(c).

8 See decision on original petition, page 4, decision on renewed petition, pages 4-5, and decision on second renewed petition, page 5.

With this third renewed petition, Petitioner argues that the oral notification of the change of address "should suffice" as a method of having provided the Office notification of the change of address.[9]

As developed above, an assertion of unavoidable delay requires that the actions of the Petitioner be compared against those of a reasonably prudent and careful individual, acting in relation to his most important business - Petitioner will note this is a difficult high standard to meet. As applied to the current set of facts, a reasonably prudent and careful individual, acting in relation to his most important business, would have complied with MPEP § 601.03 by submitting the request to update the correspondence address in writing (so that the request could be effectuated), as opposed to submitting a telephonic request in direct contravention to 37 C.F.R. § 1.2.[10] It follows that the record does not support a finding that the entire period of delay was unavoidable.

It is noted that to date, Petitioner has not submitted a change of correspondence address.

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 "Fourth Renewed Petition pursuant to 37 C.F.R. § 1.137(a)".

This is not a final agency action within the meaning of 5 U.S.C § 704.

The fourth renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[11] hand-delivery,[12] or facsimile.[13]

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9 Third renewed petition, page 3.
10 Rule 1.2 sets forth, *in toto*: "[a]ll 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."
11 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
12 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
13 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[14]

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Along with the fourth renewed petition, Petitioner should include both a response to the non-final Office action of July 3, 2007 and an indication as to why the entire period of delay was unavoidable, *i.e.* and explanation as to what prevented Petitioner from both updating his correspondence address with the Office in writing and submitting a response to the non-final Office action of July 3, 2007. **NOTICE: thereafter, there will be no further reconsideration of this matter**[15, 16].

It does not appear that Petitioner will be able to meet the unavoidable standard, and as such, a petition pursuant to 37 C.F.R. § 1.137(b) must be filed if Petitioner wishes to revive this application. Petitioner may download information about this petition here:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Petitioner's only relief is a petition under 37 C.F.R. § 1.137(b), and - having been made aware of this reality - any delay in promptly seeking relief under 37 C.F.R. § 1.137(b) may be considered evidence of intentional delay, which is an absolute bar to revival. In other words, Petitioner may choose to file a fourth renewed petition pursuant to 37 C.F.R.

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14 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

15 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.

16 If, on the fourth request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

§ 1.137(a), but the failure to concurrently submit a petition pursuant to 37 C.F.R. § 1.137(b) along with the required fee[17] may result in a finding of intentional delay.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[18]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Mr. Clifford Fogelberg
12373 Rios Road
San Diego, CA 92128

Clifford Mark Fogelberg
1960 EAST GRAND AVE #19
ESCONDIDO, CA 92027

17 The fee that is associated with the filing of this petition is presently set at $810 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0064.pdf.
18 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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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.
11/434,784	05/17/2006	Seung-A Nam	50582	4872

7590 10/07/2008
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER
REPKO, JASON MICHAEL

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
10/07/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
10/07/2008 NFARMER 0000164687

CHECK Refund Total: $500.00

Adjustment date: 10/07/2008 NFARMER
05/18/2006 SSITHIB1 00000048 11434784
03 FC:1111 -500.00 OP

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Chun-Yung HUANG, et *al.*	:	
Application No. 11/434,805	:	DECISION ON REQUEST FOR
Filed: May 17, 2006	:	REVOCATION OF POWER
Attorney Docket No. **3624-0143PUS3**	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed September 30, 2009.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

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

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

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

cc: **MUNCY, GEISSLER, OLDS & LOWE, PLLC**
P.O. BOX 1364
FAIRFAX, VA 22038-136

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MUNCY GEISSLER OLDS & LOWE, PLLC
P.O. BOX 1364
FAIRFAX, VA 22038-1364

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
Chun-Yung HUANG, et *al.* :
Application No. 11/434,805 : DECISION ON PETITION
Filed: May 17, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **3624-0143PUS3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 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 March 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 4, 2008. Accordingly, the date of abandonment of this application is March 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 of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a adequate statement of unintentional delay.

The address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

Thurman K. Page
Petitions Examiner, Office of Petitions

Cc: **JOE MCKINNEY MUNCY**
ROBERT GNUSE
P.O. BOX 1364
FAIRFAX, VA 22038-1364

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CHARLOTTE, NC 28280-4000

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APR 03 2008

OFFICE OF PETITIONS

In re Application of
Masato Shimamori, et al.
Application No. 11/434,831
Filed: May 16, 2006
Attorney Docket No. 021964/337078

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 14, 2007.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before August 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2007, which set a statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on September 13, 2007. In response, on December 14, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SUITE 2300
BOSTON, MA 02110

Mail Date: 05/21/2010

Applicant	: Ronak J. Bhatt	: DECISION ON REQUEST FOR
Patent Number	: 7663327	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,835	: 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 **898** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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.
11/434,859	05/17/2006	Houng-Kyu Kim	0006.1025	4988

7590 10/27/2008
STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER
POON, KING Y

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
10/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
10/27/2008 0030062743

Credit Card Refund Total: $550.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 10/27/2008 NFARMER
05/18/2006 CNGUYEN2 00000016 11434859
02 FC:1111 -500.00 OP
04 FC:1202 -50.00 OP

FORM PET651G (Rev. 08/07)

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED

NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Jun Koyama	:	
Application No. 11/434,885	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2976	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2629 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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P.O. Box 1450
Alexandria, VA 22313-1450
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Deborah Katz
United States Patent & Trademark Office
600 Dulany Street, MDW-917D
Alexandria, VA 22314

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Claude Leclerc et al.	:	
Application No. 11/434,892	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. 03495.0357	:	FROM RECORD
	:	

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 24, 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).

Deborah Katz been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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: **Finnegan, Henderson, Farabow,**
Garrett & Dunner LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:
Xinhua Gu et al.	:
Application No. 11/434,902	: DECISION GRANTING PETITION
Filed: May 17, 2006	:
Att'y Docket No. A9185	:

This is a decision on the petition filed July 6, 2006, under 37 CFR 1.182 in response to the Notice of Incomplete Nonprovisional Application mailed June 20, 2006, requesting that the above identified application be accorded a filing date of May 17, 2006. The petition is being treated under 37 CFR 1.53.

On May 17, 2006 the application was filed. However, on June 20, 2006, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition and 10 sheets of drawings, were filed. Petitioners argue that the drawings were filed with the other application papers on May 17, 2006. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of May 17, 2006, and the above-identified application number, and acknowledges receipt of, *inter alia*, 10 sheets of drawings, was supplied with the present petition. Petitioner requests that the application, including the drawings, be accorded a filing date of May 17, 2006.

Upon review, the drawings purportedly deposited on May 17, 2006 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on May 17, 2006, included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 10 sheets of drawings, was complete on filing and entitled to a filing date of May 17, 2006.

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

The Notice of Incomplete Nonprovisional Application mailed June 20, 2006, is withdrawn. The petition fee in the amount of $400.00 will be credited to deposit account no. 19-4880.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of May 17, 2006, using the application papers filed on May 17, 2006 and the drawings supplied on July 6, 2007.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BROSEMER, KOLEFAS & ASSOCIATES, LLC (ALU)
1 BETHANY ROAD
BUILDING 4 - SUITE # 58
HAZLET, NJ 07730

Mail Date: 08/02/2010

Applicant	: Christopher Richard Doerr	: DECISION ON REQUEST FOR
Patent Number	: 7653306	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Termin, et al. :
Application No. 11/434,920 : ON PETITION
Filed: May 15, 2006 :
Attorney Docket No. VPI/05-132 US :
For: BIARYLS USEFUL AS
MODULATORS OF ION CHANNELS

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2007, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed June 8, 2006, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 9, 2006.

Applicants have submitted a proper reply to the June 8, 2006 Notice in the form of an executed declaration and authorization to charge the surcharge to applicants' deposit account, a proper statement of the unintentional nature of the delay in responding to the June 8, 2006 Notice, and the $1,500.00 petition fee. Deposit account no. 50-0725 will be charged the $130.00 surcharge shortly.

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

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JUL 29 2008

OFFICE OF PETITIONS

Jagtiani + Guttag
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of	:	
Steven A. Orszag et al.	:	
Application No. 11/434,928	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. ORSZ-0001-UT1	:	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 June 4, 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 Ajay A. Jagtiani on behalf of all attorneys/agents associated with customer number 22506. All attorneys/agents associated with customer number 22506 have been withdrawn.

The correspondence address has been changed to that of the inventor and is copied below.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Steven A. Orszag
300 Concord Road
Billerica, MA 01821

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/434,928	05/17/2006	Steven A. Orszag	ORSZ-0001-UT1

CONFIRMATION NO. 4825

POWER OF ATTORNEY NOTICE

22506
JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

OC000000031240581

Date Mailed: 07/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/04/2008.

- 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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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

Mail Date: 04/20/2010

Applicant	: Hiroto Sugahara	: DECISION ON REQUEST FOR
Patent Number	: 7575304	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **607** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

Applicant	: Tsutomu Ogata	: DECISION ON REQUEST FOR
Patent Number	: 7601828	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,940	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE LAW OFFICE OF RANDALL T. ERICKSON, P.C.
1749 S. NAPERVILLE ROAD
SUITE 202
WHEATON IL 60187

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JUN 20 2008

In re Application of	:	
Tigran SHAHMURADYAN	:	
Application No. 11/434,974	:	DECISION ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. **6682P0010US**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 31, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 01, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 31, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2832 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE
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PATENT & TRADEMARK OFFICE

DAC

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) 6769P0010US

First named inventor: Shahmuradyan, Tigran

Application No.: 11/434,974 Art Unit: 2832

Filed: 05/16/2006 Examiner: Fishman, Marina

Title: Master Light Switch for Ground Vehicles

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 Amendment (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

05/09/2008 NNGUYEN1 00000049 11434974
01 FC:2453 770.00 OP

B. The issue fee and publication fee (if applicable) of $ _____
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	05/05/2008 Date
Randall T. Erickson Typed or printed name	33,872 Registration Number, if applicable
1749 S. Naperville Rd., Suite 202 Address	630-665-9404 Telephone Number
Wheaton, IL 60187 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.

05/05/2008 Date	Signature
	Randall T. Erickson Typed or printed name of person signing certificate

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11434974 Total Records Found: 5

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/09/2008	00000085	1	2453	$770.00	05/09/2008	CK
02/13/2008	00001862	4	8021	$40.00	02/12/2008	DA 502970
05/18/2006	00000172	1	2011	$150.00	05/16/2006	CK
05/18/2006	00000173	1	2111	$250.00	05/16/2006	CK
05/18/2006	00000174	1	2311	$100.00	05/16/2006	CK

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Steve Kostreba	: DECISION ON REQUEST FOR
Patent Number	: 7578025	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Steve Kostreba	: DECISION ON REQUEST FOR
Patent Number	: 7578025	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/434,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Jones, et al.	:	
Application No. 11/435,006	:	DECISION ON PETITION
Filed: May 15, 2006	:	
Attorney Docket No. FL0324USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 12, 2008 for failure to reply in a timely manner to the non-final Office action, mailed March 11, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed February 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1796 for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Clay Woodward Jones	: DECISION ON REQUEST FOR
Patent Number	: 7612139	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,006	: 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 **361** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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RENNER, OTTO, BOISSELLE & SKLAR, LLP (AVERY)
1621 EUCLID AVEUNE, 19TH FLOOR
CLEVELAND OH 44115-2191

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OFFICE OF PETITIONS

In re Application of	:	
GREEN, et al.	:	
Application No. 11/435,008	:	DECISION GRANTING PETITION
Filed: May 16, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **AVERP3213USC**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 18, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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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Paper No.

FLEIT GIBBONS GUTMAN
BONGINI & BIANCO P.L.
551 NW 77TH STREET, SUITE 111
BOCA RATON FL 33487

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Lim et al.	:	
Application No. 11/435,017	:	
Filed: May 16, 2006	:	
Atty Docket No.YOR920060098US1	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 12, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, August 18, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on December 15, 2008.

This petition includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Peter W.A. Bergin	: DECISION ON REQUEST FOR
Patent Number	: 7614703	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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MAR 03 2009

OFFICE OF PETITIONS

In re Application of
SELINFREUND, Richard H. et al.
Application No. 11/435,048
Filed: May 16, 2006
Attorney Docket No. **VTI-107.2(C)(US)(C)**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2009 and re-submitted on February 04, 2009.

The request is **APPROVED**.

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

The request was signed by Hans-Peter Hoffmann on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 17, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RICHARD H. SELINFREUND**
4131 HERITAGE TRAIL
TERRE HAUTE IN 47803

cc: **VERIFICATION TECHNOLOGIES, INC.**
25 MIDDLESEX TURNPIKE, UNIT 14
P.O. BOX 94
ESSEX CT 06426

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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

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In re Application of	:	
Hunt, James B.	:	DECISION ON PETITION
Application No. 11/435,057	:	TO WITHDRAW
Filed: May 16, 2006	:	FROM RECORD
Attorney Docket No. PA-5759-RFB 8627/1221	:	

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 14, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

The Office will not 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). This includes address changes to law firms, where no new power of attorney has been filed in the application. If the applicants wish future correspondence to be mailed to a new law firm, a new power of attorney should be submitted in the application and should include the desired change of correspondence address. Accordingly, as the Request to Withdraw specified a law firm as the new correspondence address of record, 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

There is an outstanding Office action mailed January 21, 2010 that requires a reply. Failure to timely and properly do so will result in abandonment of the instant 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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Gregory W. Osterloth
Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

Mail Date: 04/21/2010

Applicant	: Erik Volkerink	: DECISION ON REQUEST FOR
Patent Number	: 7590903	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,064	: 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 **4** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 : Erik Volkerink
Patent Number : 7590903
Issue Date : 09/15/2009
Application No : 11/435,064
Filed : 05/15/2006

: 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 **45** 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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KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD, IL 61101

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APR 22 2009

OFFICE OF PETITIONS

In re Application of :
Paula L. Kelly :
Application No. 11/435,074 : ON PETITION
Filed: May 16, 2006 :
Attorney Docket No. N/A :

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

The application became abandoned for failure to file a reply to the non-final Office action mailed on September 28, 2007. A Notice of Abandonment was mailed on April 21, 2008.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Keith Frantz 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 3765 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG, LLP
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Application of	:	
FAN, Kan	:	
Application No. 11/435,075	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. **17004US02**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 1, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that **GREENBERG TRAURIG, LLP** 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Richard Slaninka
Attn: Raymond J. Ho
17425 Cherokee Lane
Olney, MD 20832

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AUG 0 4 2008

In re Application of	:	
Stewart A. Noble, et al.	:	
Application No. 11/435,082	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. K0008-202-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 June 11, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Raymond J. Ho does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Global Patent Group-KAL**
Attn: Ms. Lavern Hall
10411 Clayton Road, Suite 304
St. Louis, MO 63131

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INTELLECTUAL PROPERTY DEPARTMENT
400 COLLINS ROAD NE
M/S 124-323
CEDAR RAPIDS IA 52498

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Paulsen et al.	:	
Application No. 11/435090	:	
Filing or 371(c) Date: 05/16/2006	:	DECISION
Attorney Docket Number: 06CR018/KE	:	ON PETITION

This is a decision on the correspondence entitled "Information for Withdrawal of Abandonment – PTO has no Evidence othat a Faxed Correspondence Received,: filed September 8, 2008. The correspondence is properly treated as a petition to withdraw the holding of abandonment based upon evidence that a timely reply was filed, under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed January 14, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on April 15, 2008. A Notice of Abandonment was mailed September 3, 2008.

The present petition

Applicant files the present Petition and asserts that a timely reply to the Office action was filed on April 11, 2008. In support of this assertion, Applicant includes a copy of the reply; a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of eight (8) pages from Applicant on April 11, 2008, and a copy of the Transmission Report from the sending unit. Also filed is a statement from Sheila K. Mathews attesting to the transmission of the reply on April 11, 2007.

A review of the copy of the reply filed with the petition reveals that it includes a Certificate of Transmission under 37 CFR 1.8, executed by Sheila K, Mathews, attesting to the transmission of the reply on April 11, 2007.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.
>
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2821 for processing of the Reply, and for continued examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
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FOURTEENTH FLOOR
IRVINE CA 92614

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AUG 0 8 2008

In re Application of	:
Katz et al.	:
Application No. 11/435120	: DECISION ON PETITION
Filing or 371(c) Date: 05/16/2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AMBIINC.007DV2	:

This is a decision on the "Petition for Unintentionally Delayed Claim to Benefit of Prior U.S. Application Under 37 C.F.R. 1.78(A)(2)," filed June 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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.

As to item (1), 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a

continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Further as to item (1), the reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application(s). 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) 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
Director 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 Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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NOV 25 2008

In re Application of	:
Katz et al.	:
Application No. 11/435120	: DECISION ON PETITION
Filing or 371(c) Date: 05/16/2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AMBIINC.007DV2	:

This is a decision on the renewed "Petition for Unintentionally Delayed Claim to Benefit of Prior U.S. Application Under 37 C.F.R. 1.78(A)(2)," filed September 5, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1655 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/435,120	05/16/2006	1655	815	AMBIINC.007DV2	20	2

CONFIRMATION NO. 6042

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000033180661

Date Mailed: 11/20/2008

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

Applicant(s)

David P. Katz, Dobbs Ferry, NY;
James R. Komorowski, Trumbull, CT;
Danielle Greenberg, Waccabuc, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/319,328 12/12/2002
which is a DIV of 09/957,876 09/20/2001 PAT 6,809,115
which claims benefit of 60/234,474 09/21/2000
and claims benefit of 60/296,688 06/06/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/435,120**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Methods for the treatment of diabetes, the reduction of body fat, improvement of insulin sensitivity, reduction of hyperglycemia, and reduction of hypercholesterolemia with chromium complexes, conjugated fatty acids, and/or conjugated fatty alcohols

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 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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535 SMITHFIELD STREET
PITTSBURGH PA 15222

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OFFICE OF PETITIONS

In re Application of	:	
Kentor, Boris	:	
Application No. 11/435,121	:	ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. 060244	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 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 Declaration from the applicant. 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 3682 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Katz et al.	:	
Application No. 11/435125	:	DECISION ON PETITION
Filing or 371(c) Date: 05/16/2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AMBIINC.007DV3	:	

This is a decision on the "Petition for Unintentionally Delayed Claim to Benefit of Prior U.S. Application Under 37 C.F.R. 1.78(A)(2)," filed June 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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.

As to item (1), 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a

continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Further as to item (1), the reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application(s). 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) 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
Director 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 Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Katz et al.	:
Application No. 11/435125	: DECISION ON PETITION
Filing or 371(c) Date: 05/16/2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AMBIINC.007DV3	:

This is a decision on the "Renewed Petition for Unintentionally Delayed Claim to Benefit of Prior U.S. Application Under 37 C.F.R. 1.78(A)(2)," filed December 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1655 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/435,125	05/16/2006	1655	500	AMBIINC.007DV3	10	1

CONFIRMATION NO. 6055

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000034401265

Date Mailed: 02/05/2009

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

Applicant(s)

David P. Katz, Dobbs Ferry, NY;
James R. Komorowski, Trumbull, CT;
Danielle Greenberg, Waccabuc, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/319,328 12/12/2002
which is a DIV of 09/957,876 09/20/2001 PAT 6,809,115
which claims benefit of 60/234,474 09/21/2000
and claims benefit of 60/296,688 06/06/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/435,125**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Methods for the treatment of diabetes, the reduction of body fat, improvement of insulin sensitivity, reduction of hyperglycemia, and reduction of hypercholesterolemia with chromium complexes, conjugated fatty acids, and/or conjugated fatty alcohols

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

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of
Peh et al.
Application No. 11/435,149
Filed: May 15, 2006
Attorney Docket No. 34874-156-CIP/2005P00396U

DECISION ON PETITION

This is a decision on the petition, filed March 6, 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 April 11, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 5, 2008.

Petitioner asserts that the Office action dated April 11, 2008 was not received. Petitioner has provided a master docket record where the non-final Office Action would have been entered had it been 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2161 for re-mailing the Office action of April 11, 2008. The period for reply will run from the mailing date of the Office action.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN, PA 19355-1481

In re Application of	:	
Denise N. Longua	:	DECISION ON PETITION
Application No. 11/435,164	:	TO WITHDRAW
Filed: May 16, 2006	:	FROM RECORD
Attorney Docket No. 183385-0002	:	

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, 2009.

The request is **APPROVED**.

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

The request was signed by Kim R. Jessum on behalf of all practitioners of record associated with Customer Number 50787.

All attorneys/agents associated with the Customer Number 50787 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 Final Office action mailed June 8, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DENISE N. LONGUA
18 RIDGEWOOD AVENUE
MALVERN, PA 19355

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/435,164	05/16/2006	Denise N. Longua	

CONFIRMATION NO. 6024

POWER OF ATTORNEY NOTICE

50787
STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN, PA 19355-1481

OC000000037658864

Date Mailed: 09/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/11/2009.

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

/atkelley/

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

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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	: Bing Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7655137	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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PO BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of	:	
Denny, et al.	:	
Application No. 11/435,170	:	DECISION ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. 1950.054	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2007. Accordingly, the date of abandonment of this application is March 15, 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.

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 Ramesh Krishnamurthy at (571)272 - 4914.

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

David Bucci
Petitions Examiner
Office of Petitions

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

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Chao Chin Chen et al.	:	
Application No. 11/435,195	:	ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. CRD5012USCIP2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 6, 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) was obtained. Accordingly, the application became abandoned on August 8, 2006. The Notice of Abandonment was mailed February 8, 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 signed oath/declaration and $130 surcharge fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Office of Initial Patent Examination for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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DEC 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Strothmann et al.	:	
Application No. 11/435,198	:	
Filing or 371(c) Date: 05/15/2006	:	ON PETITION
Attorney Docket Number:	:	
674001-2001.1	:	

This is a decision on the "Petition Under 37 CFR § 1.182, filed September 5, 2006, to change the name of an inventor. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Background

The application was filed on May 15, 2006, without an oath/declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application on June 5, 2006, requiring an executed oath/declaration.

In response to the Notice, Applicant filed an oath/declaration along with the instant petition on September 5, 2006.

A review of the oath/declaration reveals that the oath/reclaration has been altered to wit: name of inventor Kristina King has been handwritten next to the name Kristina Muller; however, the alteration has not been initialed.

Applicable law, Rules and/or MPEP

37 CFR 1.52(c)(1) provides, in relevant part:

> Any interlineation, erasure, cancellation or other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper.

Also relevant is 37 CFR 1.48(a)(1), which provides

> Nonprovisional application —filing executed oath /declaration corrects inventorship. If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship.

Analysis and conclusion

Applicant has submitted the oath/declaration that includes alterations, however, the alterations have not been initialed. A newly executed oath/declaration is required. Moreover, under 37 CFR 1.48(a)(1), the filing of an executed oath or declaration under 37 CFR § 1.63 will correct the earlier identification of inventorship.

Applicant is advised that the petition fee is currently $400. The balance of the petition fee, $270, has been charged to Applicant's deposit account as authorized in the petition.

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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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

Mail Date: 04/21/2010

Applicant	: Brock Lundberg	: DECISION ON REQUEST FOR
Patent Number	: 7582213	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **347** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT J JACOBSON PA
650 BRIMHALL STREET SOUTH
ST. PAUL, MN 55116-1511

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OFFICE OF PETITIONS

In re Application of	:	
MCKENNA, Louis H.	:	
Application No. 11/435,238	:	DECISION ON PETITION
Filed: May 15, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **LHM-EWS-3**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 19, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Louis H. McKenna 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 the undersigned at 571-272-4231.

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.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Stephanie Gary	: DECISION ON REQUEST FOR
Patent Number	: 7659307	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,262	05/16/2006	Peter Donald Friedemann	64,280A	5851

25212 7590 08/28/2009
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
BUI, PHUONG T

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
08/28/2009	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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DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

AUG 2 8 2009

In re Application of:
Peter Donald Friedemann
Serial No.: 11/435,262
Filed: May 16, 2006
Attorney Docket No.: **64,280A**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed August 18, 2009, 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 August 18, 2009, 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**. Petitioner 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
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,262	05/16/2006	Peter Donald Friedemann	64,280A	5851

25212 7590 03/17/2010
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
BUI, PHUONG T

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
03/17/2010	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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MAR 1 7 2010

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:
Peter Donald Friedemann
Serial No.: 11/435,262
Filed: May 16, 2006
Attorney Docket No.: **64,280A**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed March 8, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that Declaration under 37 CFR 1.132 submitted to the Patent Office on August 18, 2009 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 entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner'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
Technology Center 1600

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Emily H. Qi	: DECISION ON REQUEST FOR
Patent Number	: 7613436	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,267	: 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 **776** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

In re Application of
Kwon et al.
Application No. 11/435,271
Filed: May 15, 2006
Attorney Docket No. 139-084U

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 11, 2006 (certificate of mailing December 6, 2006) under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

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

The above-identified application was filed on May 15, 2006, without an executed oath or declaration. Accordingly, on June 7, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 7, 2006.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

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

petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to item (1), where an inventor cannot be located/reached as in the case of inventor Hong, rule 47 applicant must demonstrate "diligent effort" was made to find or reach the non-signing inventor. See MPEP 409.03(d). The evidence provided shows that petitioner has inquired of the former employee and co-inventors. Petitioner also states correspondence sent to the last known e-mail address went unanswered. Such a showing is not sufficient to establish diligent effort was used to locate inventor Hong. Copies of documentary evidence such as internet searches, searches of foreign registry and telephone books, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. It is important that the statement contain facts as opposed to conclusions.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship of all of the inventors pursuant to 37 CFR 1.63 (a)(3). Specifically, petitioner failed to provide the citizenship of inventor Hong. On renewed petition, a newly executed declaration is required.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GREGORY SMITH & ASSOCIATES
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NEWARK CA 94560

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OFFICE OF PETITIONS

In re Application of
Kwon et al.
Application No. 11/435,271
Filed: May 15, 2006
Attorney Docket No. 139-084U

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a)

Papers filed on December 26, 2007 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed September 21, 2007, included a Declaration signed by a previously non-signing inventor, Hong, in compliance with 37 CFR 1.63.

The petition 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 the to Art Unit 2627 for appropriate action by the examiner in the normal course of business.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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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	: Bob Rogers	: DECISION ON REQUEST FOR
Patent Number	: 7648491	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,274	: 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 **188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Jesper Jensen	:	
Application No. 11/435,283	:	DECISION ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. 019491-018210US	:	

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 June 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on September 27, 2008. A Notice of Abandonment was mailed March 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37

CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00 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.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Linda Beach
Electronic Arts, Inc.
209 Redwood Shores Parkway
Redwood City, CA 94065

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Kazuhito Saito, et al.	:	
Application No.: 11/435,293	:	ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No.: 049677-0185	:	

This is a decision on the petition, filed April 17, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2874 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/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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c/o Vidas, Arrett &
Steinkraus, P.A.
6640 Shady Oak Road
Suite #400
Eden Prairie MN 55344-7834

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OFFICE OF PETITIONS

In re Application of	:	
BENTLEY et al.	:	
Application No. 11/435,298	:	DECISION ON APPLICATION
Filed: May 16, 2006	:	FOR
Atty Docket No. A39.2B-13258-US01	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed July 1, 2008, which is properly treated as a petition under 37 CFR 1.705(b). Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 109 days to 163 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **163 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 109 days. Applicants timely filed the instant application for patent term adjustment[1].

[1] PALM Records indicate that the Issue Fee payment was received on July 8, 2008.

Applicants dispute the reduction of 54 days for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed June 9, 2006. Applicants explain that they originally submitted the reply on August 8, 2006, which appeared to have been lost in the USPTO. Applicants indicate that they resubmitted a copy of the previously filed reply on November 2, 2006, accompanied by a copy of the original facsimile transmission report and the USPTO's Auto-Reply Facsimile Transmission showing receipt of 13 pages in the USPTO on August 8, 2006. Applicants assert that the resubmission of the reply to the Notice to File Missing Parts of Nonprovisional Application does not warrant a reduction of the patent term adjustment pursuant to 37 CFR 1.704(b).

A review of the applicants' evidence is unnecessary. The Office has located the original response to the Notice to Filing Missing Parts of Nonprovisional Application filed on August 8, 2006,[2] and has made it of record in this application. Under these circumstances, the date of receipt of the response on August 8, 2006, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b). The response was filed within three months from the June 9, 2006 mail date of the Notice to File Missing Parts of Nonprovisional Application. Thus, applicants did not fail to engage in reasonable efforts to conclude processing by delaying in responding to the Notice to File Missing Parts of Nonprovisional Application. Accordingly, the period of reduction of 54 days is not warranted and is being removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 163 days (163 days of Office delay - 0 days of applicant delay).

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

---

[2] The reply contains a USPTO Central Fax Center date stamp of August 8, 2006.

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

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Tuesday
Date: 12/2/2008

PALM INTRANET

Time: 14:43:06

PTA Calculations for Application: 11/435298			
Application Filing Date:	05/16/2006	PTO Delay (PTO):	163
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	54
Post-Issue Petitions:	0	Total PTA (days):	163
PTO Delay Adjustment:	54		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	12/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	54		
41	05/01/2008	MAIL NOTICE OF ALLOWANCE			
40	04/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	04/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	01/29/2008	ISSUE REVISION COMPLETED			
37	04/29/2008	DOCUMENT VERIFICATION			
36	04/28/2008	NOTICE OF ALLOWABILITY			
32	04/24/2008	PARALEGAL TD ACCEPTED			
31	03/26/2008	TERMINAL DISCLAIMER FILED		0	29
30	04/23/2008	DATE FORWARDED TO EXAMINER			
29	03/26/2008	RESPONSE AFTER NON-FINAL ACTION			
28	03/24/2008	NEW OR ADDITIONAL DRAWING FILED			
27	03/20/2008	PG-PUB ISSUE NOTIFICATION			
26	12/26/2007	MAIL NON-FINAL REJECTION	163		-1
25	12/20/2007	NON-FINAL REJECTION			
24	08/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	08/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	12/10/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	11/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	11/07/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	11/06/2007	CORRESPONDENCE ADDRESS CHANGE			
18	08/14/2006	REFERENCE CAPTURE ON IDS			
17	08/22/2006	REFERENCE CAPTURE ON IDS			

16	07/19/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	08/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	12/07/2006	APPLICATION DISPATCHED FROM OIPE			
10	12/07/2006	APPLICATION IS NOW COMPLETE			
9	11/02/2006	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		54	5
6	11/02/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	06/09/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/28/2006	CLEARED BY OIPE CSR			
2	05/21/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/16/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PHOENIX AZ 85004-2391

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OFFICE OF PETITIONS

In re Application of :
Pendse, et al. :
Application No. 11/435,305 :
Filed: May 15, 2006 :
Attorney Docket No. 125155.00049 :
For: FLIP CHIP INTERCONNECTION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed June 9, 2006, which set a two month shortened statutory period for reply. Applicants submitted a complete reply to the Notice on September 11, 2006. However, no extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, the complete reply was filed late. This application became abandoned on August 10, 2006. A Notice of Abandonment was mailed on August 4, 2008.

Applicants have previously submitted a proper reply to the June 9, 2006 Notice, an acceptable statement of the unintentional nature of the delay in responding to the June 9, 2006 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

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

Regarding fees, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1640.00 four extension of time submitted with the petition on August 20, 2008 was submitted subsequent to the expiration of the maximum period obtainable for reply (which is for

future reference, 5 months), this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

JUN 18 2010

OFFICE OF PETITIONS

KENT SIEFFERT
SHUMAKER & SIEFFERT, PA
1625 RADIO DRIVE, SUITE 300
WOODBURY, MN 55125

In re Application of	:	
Naruse et al.	:	DECISION ON PETITION
Application No. 11/435,309	:	TO WITHDRAW
Filed: May 16, 2006	:	FROM RECORD
Attorney Docket: NS-US065344	:	

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** because it is moot.

A review of the file record indicates that Shumaker & Sieffert, PA was revoked as power of attorney by the assignee of the patent application on November 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Christopher J. Hoffman	: DECISION ON REQUEST FOR
Patent Number	: 7573713	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **558** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

COPY MAILED

JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Ambite Iglesias, et al.	:	
Application No. 11/435,364	:	DECISION DISMISSING
Filed: May 16, 2006	:	PETITION
Attorney Docket No.: U016291-7	:	

This is a decision on the petition under 37 CFR 1.182, filed July 24, 2006.

The petition is **dismissed.**

The above-identified application was filed on May 16, 2006. However, on June 23, 2006, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that application had been accorded a filing date of May 16, 2006, and advising applicant Figure 5 as described in the specification appeared to be omitted. As to the alleged omitted figure, the notice set forth a non-extendable period of reply of two months from its mailing date.

In response, on July 24, 2006, applicant filed the present petition and remitted a $400.00 petition fee. Applicant explains that Figure 5 was not omitted on May 16, 2006. Applicant further explains that Figure 5 was not labeled, but that the drawings were complete as filed on May 16, 2006.

It is obvious from the petition that no figures were actually missing on May 16, 2006. Rather, the drawings were mislabeled as a result of applicant's filing error. However, the "Notice to File Missing Parts of Nonprovisional Application was correct in stating that Figure 5 as described in the specification appeared to have been omitted. Therefore, the language relative to the omitted figure in the Notice to File Missing Parts of Nonprovisional Application, was properly mailed and will not be withdrawn.

The $400.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 16, 2006, using the drawings filed on that date. Thereafter, the application file will be forwarded to Technology Center 3600, GAU 3644 for consideration of the preliminary amendment filed July 24, 2006.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Ferrera, et al.	:	
Application No. 11/435,373	:	DECISION ON PETITION
Filed: May 16, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MICRU 74299	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 12, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3731 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/435,373	05/16/2006	3731	4140	MICRU 74299	147	7

CONFIRMATION NO. 4692

CORRECTED FILING RECEIPT

24201
FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

OC000000036467422

Date Mailed: 06/15/2009

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

Applicant(s)

David A. Ferrera, Manhattan Beach, CA;
Daniel R. Kurz, Sunnyvale, CA;
Lok A. Lei, San Jose, CA;
Julia A. Larsen, San Mateo, CA;

Power of Attorney:

Gilbert Kovelman--19552
Richard Bardin--20365
Craig Bailey--28786
David Parkhurst--29422
James Paul--29967
John Nagy--30664
Thomas Majcher--31119
Ronald Perez--36891
John Hanley--38171

Domestic Priority data as claimed by applicant

This application is a CON of 10/628,767 07/28/2003 PAT 7,326,225
which is a CON of 09/762,539 02/08/2001 PAT 6,616,617
which is a 371 of PCT/US98/25822 12/04/1998
which is a CIP of 09/019,841 02/06/1998 PAT 6,159,165
which is a CIP of 08/986,004 12/05/1997 ABN

Foreign Applications

UNITED STATES OF AMERICA PCT/US98/25822 12/04/1998

If Required, Foreign Filing License Granted: 06/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/435,373**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Vasoocclusive device for treatment of aneurysms

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Kevin M. Pumm
Suite 400
7700 Bonhomme
St. Louis, MO 63105

Mail Date: 04/21/2010

Applicant	: Joel Kwan Barrientos	: DECISION ON REQUEST FOR
Patent Number	: 7608085	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
PO BOX 1319
SALT LAKE CITY UT 84110

COPY MAILED
MAR 3 1 2008

In re Application of Bill J. Pope et al. Application No. 11/435,383 Filed: May 16, 2006 Attorney Docket No. 6053.1 P Title of Invention: PROSTHETIC HIP JOINT HAVING POLYCRYSTALLINE DIAMOND ARTICULATION SURFACES AND AT LEAST ONE SOLID POLYCRYSTALLINE DIAMOND COMPACT	DECISION ON TWO PETITIONS PURSUANT TO 37 C.F.R. §§ 1.78(A)(3) AND 1.137(B)

This is a decision on the two petitions concurrently filed on January 28, 2008. A first Petitioner has submitted a petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, and a second Petitioner has submitted a petition pursuant to 37 C.F.R. § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in a concurrently filed amendment.

The petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

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

The concurrently submitted Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

The petition pursuant to 37 C.F.R. § 1.78(a)(3):

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As set forth above, 37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional.

Since the statement contained in this petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

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

The granting of this petition to accept the delayed benefit claim to the prior-filed applications pursuant to 37 C.F.R. § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to

the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that Applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the Examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The petition pursuant to 37 C.F.R. § 1.137(b):

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 8, 2006, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 9, 2006. A notice of abandonment was mailed on February 20, 2007.

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

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

With this petition, Petitioner has submitted the petition fee, the basic filing fee, the search fee, the examination fee, the

fee associated with the filing of an application containing an excessive number of pages, the fee associated with the filing of an application containing an excessive number of claims, a declaration along with the surcharge associated with the late submission of the same, and the proper statement of unintentional delay.

As such, Petitioner has met requirements (1) - (3) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

It is noted that the two petitions contain different addresses.

If Rule 1.137(b) Petitioner desires to receive future correspondence regarding this application, a change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay in relation to the petition submitted pursuant to Rule 1.137(b) was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[1]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

---

1 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

In due course, the Examiner will consider Applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

The general phone number for OPAP is 571-272-4000. Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: Stan Despres
1186 South 1680 West
Orem, Utah 84058

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/435,383	05/16/2006	3738	1510	6053.1 P	50	1

CONFIRMATION NO. 5189

CORRECTED FILING RECEIPT

Parsons Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84111

OC000000029036458

Date Mailed: 03/24/2008

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

Applicant(s)

Bill J. Pope, Residence Not Provided;
Jeffery K. Taylor, Residence Not Provided;
Richard H. Dixon, Residence Not Provided;
Clayton F. Gardinier, Residence Not Provided;
Louis M. Pope, Residence Not Provided;
Dean C. Blackburn, Residence Not Provided;
Michael A. Vail, Residence Not Provided;
Kenneth M. Jensen, Residence Not Provided;

Assignment For Published Patent Application

Diamicron, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/755,152 01/09/2004
and is a CON of 10/727,908 11/30/2004
which is a CON of 09/494,278 01/30/2000 PAT 7,077,867
and said 10/755,152 01/09/2004
is a DIV of 09/494,284 01/30/2000 PAT 6,676,704

Foreign Applications

If Required, Foreign Filing License Granted: 06/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/435,383**

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

Non-Publication Request: No

Early Publication Request: No
Title

Prosthetic hip joint having polycrystalline diamond articulation surfaces and at least one solid polycrystalline diamond compact

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

LAW OFFICE OF MICHAEL P. EDDY
MICHAEL P. EDDY
12526 HIGH BLUFF DRIVE, STE. 300
SAN DIEGO, CA 92130

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of Mario Carvajal Application No. 11/435,391 Filed: May 15, 2006 Attorney Docket: 3198-04	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2010.

The request is **APPROVED**.

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

The request was signed by Michael P. Eddy, on behalf of all practitioners of record associated with Customer Number 37101.

Customer Number 37101 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 12, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARIO CARVAJAL
P.O. BOX 893611
TEMECULA, CA 92589

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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
11/435,391	05/15/2006	Mario Carvajal	3198-04

CONFIRMATION NO. 4439

POWER OF ATTORNEY NOTICE

37101
LAW OFFICE OF MICHAEL P. EDDY
MICHAEL P. EDDY
12526 HIGH BLUFF DRIVE, STE. 300
SAN DIEGO, CA 92130

OC000000040847186

Date Mailed: 03/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2010.

- 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.

/atkelley/

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

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Paper No.

RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
PO BOX 1319
SALT LAKE CITY UT 84110

COPY MAILED

MAY 14 2008

OFFICE OF PETITIONS

In re Application of Bill J. Pope et al. Application No. 11/435,392 Filed: May 16, 2006 Attorney Docket No. 6053.2 P Title of Invention: PROSTHETIC HIP JOINT HAVING POLYCRYSTALLINE DIAMOND ARTICULATION SURFACES AND AT LEAST ONE SOLID POLYCRYSTALLINE DIAMOND COMPACT	DECISION ON TWO PETITIONS PURSUANT TO 37 C.F.R. §§ 1.78(A)(3) AND 1.137(B)

This is a decision on the two petitions concurrently filed on January 28, 2008. A first Petitioner has submitted a petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, and a second Petitioner has submitted a petition pursuant to 37 C.F.R. § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in a concurrently filed amendment.

The petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

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

The concurrently submitted Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

The petition pursuant to 37 C.F.R. § 1.78(a)(3):

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

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

As set forth above, 37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional. Since the statement contained in this petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included the required reference, an amendment to the specification, the surcharge, and a statement that is being construed as the proper statement of unintentional delay. All of the above requirements having been satisfied, the late claim for priority pursuant to 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of this petition to accept the delayed benefit claim to the prior-filed applications pursuant to 37 C.F.R.

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

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

The petition pursuant to 37 C.F.R. § 1.137(b):

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 8, 2006, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 9, 2006. A notice of abandonment was mailed on February 20, 2007.

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

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

With this petition, Petitioner has submitted the petition fee, the basic filing fee, the search fee, the examination fee, the fee associated with the filing of an application containing an excessive number of pages, a declaration along with the surcharge associated with the late submission of the same, and the proper statement of unintentional delay.

As such, Petitioner has met requirements (1) - (3) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

It is noted that the two petitions contain different addresses. If Rule 1.137(b) Petitioner desires to receive future correspondence regarding this application, a change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay in relation to the petition submitted pursuant to Rule 1.137(b) was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[1]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

---

1 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

In due course, the Examiner will consider Applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

The general phone number for OPAP is 571-272-4000. Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: Stan Despres
1186 South 1680 West
Orem, Utah 84058

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
11/435,392	05/16/2006	3738	760	6053.2 P	10	1

CONFIRMATION NO. 4437

CORRECTED FILING RECEIPT

OC000000029933438

27472
RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
PO BOX 1319
SALT LAKE CITY, UT 84110

Date Mailed: 05/14/2008

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

Applicant(s)

Bill J. Pope, Residence Not Provided;
Jeffery K. Taylor, Residence Not Provided;
Richard H. Dixon, Residence Not Provided;
Clayton F. Gardinier, Residence Not Provided;
Louis M. Pope, Residence Not Provided;
Dean C. Blackburn, Residence Not Provided;
Michael A. Vail, Residence Not Provided;
Kenneth M. Jensen, Residence Not Provided;

Assignment For Published Patent Application

Diamicron, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 27472

Domestic Priority data as claimed by applicant

This application is a CON of 10/755,152 01/09/2004
which is a DIV of 09/494,284 01/30/2000 PAT 6,676,704
This application 11/435,392
is a CON of 10/727,908 11/30/2004
which is a CON of 09/494,278 01/30/2000 PAT 7,077,867

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/435,392**

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

Non-Publication Request: No

Early Publication Request: No

Title

Prosthetic hip joint having polycrystalline diamond articulation surfaces and at least one solid polycrystalline diamond compact

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

Mail Date: 04/21/2010

Applicant	: Gun Woo Do	: DECISION ON REQUEST FOR
Patent Number	: 7663594	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Treyz Law Group
870 Market Street, Suite 984
San Francisco, CA 94102

Mail Date: 04/21/2010

Applicant	: Ninh D. Ngo	: DECISION ON REQUEST FOR
Patent Number	: 7634713	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Treyz Law Group
870 Market Street, Suite 984
San Francisco, CA 94102

Mail Date: 05/18/2010

Applicant : Ninh D. Ngo
Patent Number : 7634713
Issue Date : 12/15/2009
Application No : 11/435,467
Filed : 05/16/2006

: 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 **869** 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.
11/435,476	05/17/2006	Martin Viss	10060289-01	6216

7590 12/11/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER
LAMARRE, GUY J

ART UNIT	PAPER NUMBER
2112	

NOTIFICATION DATE	DELIVERY MODE
12/11/2009	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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARMER
05/19/2006 NLE333 00000048 501075 11435476
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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LLP
INTELLECTUAL PROPERTY
DEPARTMENT
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of	:	
McNutt et al.	:	
Application No. 11/435,484	:	ON APPLICATION FOR
Filed: May 17, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
P98044US00JS	:	
Title: Motorcycle Trailer	:	
System	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed September 9, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty- (180) days to one hundred ninety-eight (198) days. This matter is properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred ninety-eight (198)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 11, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 180 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R.

[1] PALM Records indicate that the Issue Fee payment was received on November 9, 2009.

§ 1.18(e). Applicants request that the patent term adjustment be corrected to 198 days.

Applicants assert that the reduction pursuant to 37 CFR 1.704(b) should be calculated as 73 days, not 91 days. Applicants note that after an Office action was mailed on June 5, 2008, a supplemental Office action was mailed on June 23, 2008, resetting the period for reply. A response to the June 23, 2008 Office action was submitted on December 5, 2008. Thus, applicants contend the total reduction for applicant delay is 163 days.

A review of the record reveals that the Office errantly entered 91 days of reduction in connection with the reply filed December 5, 2008. The correct reduction in accordance with 37 CFR 1.702(b), as asserted by applicants, is 73 days. The reduction commenced September 24, 2008, the day after the date that is three months after the date that the non-final Office action was mailed on June 23, 2008, and ended December 5, 2008, the date that a reply to the non-final Office action was filed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 198 days (361 - 163).

Applicants are reminded that 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Thursday
Date: 12/17/2009

PALM INTRANET

Time: 22:33:43

PTA Calculations for Application: 11/435484			
Application Filing Date:	05/17/2006	PTO Delay (PTO):	361
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	181
Post-Issue Petitions:	0	Total PTA (days):	198
PTO Delay Adjustment:	18		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
47	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	91		
40	08/11/2009	MAIL NOTICE OF ALLOWANCE	37		33
39	08/10/2009	ISSUE REVISION COMPLETED			
38	08/10/2009	DOCUMENT VERIFICATION			
37	08/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	08/06/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
35	07/29/2009	NOTICE OF ALLOWABILITY			
34	06/01/2009	DATE FORWARDED TO EXAMINER			
33	03/05/2009	RESPONSE AFTER NON-FINAL ACTION		90	29
32	02/24/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
31	12/05/2008	NEW OR ADDITIONAL DRAWING FILED			
30	12/18/2008	DATE FORWARDED TO EXAMINER			
29.1	12/05/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
29	12/05/2008	RESPONSE AFTER NON-FINAL ACTION		91	24
28	12/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	06/23/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
26	06/13/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
25	06/09/2008	CORRESPONDENCE ADDRESS CHANGE			
24	06/05/2008	MAIL NON-FINAL REJECTION	324		-1
21	06/04/2008	NON-FINAL REJECTION			

20	08/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	06/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	06/09/2007	TRANSFER INQUIRY TO GAU			
14	08/23/2006	REFERENCE CAPTURE ON IDS			
13.7	08/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	08/09/2006	APPLICATION DISPATCHED FROM OIPE			
10	08/09/2006	APPLICATION IS NOW COMPLETE			
9	07/24/2006	ADDITIONAL APPLICATION FILING FEES			
8	07/24/2006	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	08/02/2006	CORRESPONDENCE ADDRESS CHANGE			
6	06/05/2006	CORRECTED PAPER			
5	05/17/2006	PGPUBS NONPUB REQUEST			
4	05/25/2006	CLEARED BY OIPE CSR			
3	05/25/2006	CASE CLASSIFIED BY OIPE			
2	05/24/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/17/2006	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.

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BRADLEY ARANT BOULT CUMMINGS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

Mail Date: 04/21/2010

Applicant	: John McNutt	: DECISION ON REQUEST FOR
Patent Number	: 7654609	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRADLEY ARANT BOULT CUMMINGS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

Mail Date: 04/21/2010

Applicant	: John McNutt	: DECISION ON REQUEST FOR
Patent Number	: 7654609	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ian C. McLeod
McLEOD & MOYNE, P.C.
2190 Commons Parkway
Okemos MI 48864

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MAY 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Lawrence T. Drzal, et al.	:	
Application No. 11/435,498	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MSU 4.1-754	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 20, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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

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BRINKS HOFER GILSON & LIONE/INDY/COOK
BRINKS HOFER GILSON & LIONE
201 NORTH ILLINOIS STREET, SUITE 1100
INDIANAPOLIS, IN 46204-4220

COPY MAILED

MAR 01 2010

In re Application of **Brian C. CASE**, et *al.* Application No. 11/435,508 Filed: May 17, 2006 Attorney Docket No. **1000-276**	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BRINKS HOFER GILSON & LIONE/INDY/COOK** has been revoked by the assignee of the patent application on January 26, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: **BUCHANAN INTELLECTUAL PROPERTY OFFICE, LLC**
P.O. BOX 700
PERRYSBURG, OH 43552-0700

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Ho-Jun Lee	: DECISION ON REQUEST FOR
Patent Number	: 7587168	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **640** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Erickson Law Group, PC
1749 S. NAPERVILLE ROAD
SUITE 202
WHEATON, IL 60189

Mail Date: 04/20/2010

Applicant	: Jonathan Blanshay	: DECISION ON REQUEST FOR
Patent Number	: 7648233	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ARRAY BIOPHARMA, INC.
3200 WALNUT STREET
BOULDER CO 80301

In re Application of	:	
Marlow, et al.	:	
Application No. 11/435,562	:	ON APPLICATION FOR
Filed: May 17, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. ARR008 CIP6	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(d), filed September 23, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at a minimum five hundred forty-six (546) days, not three hundred eighty-three (383) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. It is noted that a RCE was filed on October 23, 2009, after the present petition was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of

issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Applicants are reminded of their duty of candor to the Office.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,586	05/17/2006	Haruhiko Toyama	TOSHP120US	6996

7590 07/13/2009
TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
07/13/2009	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/13/2009 0030072103

Credit Card Refund Total: $750.00

Master C: XXXXXXXXXXXX6807

Adjustment date: 07/13/2009 NFARMER
05/19/2006 NNGUYEN1 00000070 11435586
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP
05 FC:1202 -50.00 OP

FORM PET651G (Rev. 08/07)

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Nancy Uehlein-Proctor	: DECISION ON REQUEST FOR
Patent Number	: 7649337	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,596	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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FEB 05 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Laurent Querel
Application No. 11/435,603
Filed: May 17, 2006
Attorney Docket No: **04571 P0001A**

This is a decision on the petition to withdraw the holding of abandonment, filed January 8, 2009, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 17, 2008, for failure to file a timely response to the non-Final Office Action mailed April 16, 2008, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 19, 2008. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket to show that the Office Action mailed April 16, 2008 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed April 16, 2008, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2161 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON OH 44317

MAILED

NOV 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Yuan-Yong Yan	:	
Application No. 11/435,613	:	DECISION ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. P04075US2A(P394)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 8, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 9, 2008. A Notice of Abandonment was mailed May 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Arthur M. Reginelli
4th Floor, First National Tower
Akron OH 44308

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Alexandria, VA 22313-1450
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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In re Application of	:	
KIM, KWANG-BU	:	MAR - 3 2009
Application No.: 11/435,616	:	DECISION ON
Filing or 371(c) Date: 05/17/06	:	PETITION
Attorney Docket Number: F-9105	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed June 27, 2008.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed February 15, 2008.

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

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

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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Alexandria, VA 22313-1450
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In re Application of
Lanny L. Johnson

Application No. 11435619

Filed: May 17,2006

Attorney Docket No. WDS-1640

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 11-JUN-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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BIOTECH BEACH LAW GROUP ,
PC
625 BROADWAY
Suite 1210
SAN DIEGO CA 92101

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of

Lanny L. Johnson :

Application No. 11/435,619

: DECISION ON PETITION

Filed: May 17, 2006

:

Attorney Docket No. WDS-1640

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 23, 2008, 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 January 24, 2009. A Notice of Abandonment was mailed on April 29, 2009.

The response filed April 27, 2009, is noted.

The application is being forwarded to Technology Center 3700, GAU 3736 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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SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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DEC 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Purang et al.	:	
Application No. 11/435,633	:	ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. 080398.P653	:	

This is a decision on the petition filed August 4, 2006, requesting that the above-identified application be accorded a filing date of May 16, 2006, rather than the presently accorded date of May 17, 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 the U.S. Postal Service (USPS) as Express Mail on May 16, 2006 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 839872306 US, showing a handwritten "date-in" of "May 16, 2006," as well as a "May 16, 2006" receipt stamp. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal" and the Certificate of Mailing by "Express Mail," includes a statement of express mailing dated May 16, 2006, on the cover page for the application papers.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on May 16, 2006, at 8:04 p.m. at the San Jose, CA USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on May 16, 2006.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require a petition fee and none has been charged.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of May 16, 2006, along with a corrected filing receipt.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/20/2010

Applicant	: Hiroyuki Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7573647	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,634	: OF WYETH
Filed	: 05/17/2006	:
		:

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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 05/17/2010

Applicant : Hiroyuki Matsumoto
Patent Number : 7573647
Issue Date : 08/11/2009
Application No : 11/435,634
Filed : 05/17/2006

: 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 **556** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808-2952

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul John Pepe et al	:	
Application No. 11/435,644	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. E-TO-00089(SPLG	:	
20958-95	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 9, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 24, 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 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ROCKWELL AUTOMATION, INC./(QB)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

Mail Date: 04/20/2010

Applicant	: Russel J. Kerkman	: DECISION ON REQUEST FOR
Patent Number	: 7649756	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,651	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of
Thomas M. DeMarco
Application No. 11/435,661
Filed: May 17, 2006
Attorney Docket No. 2974/95254

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 April 5, 2007.

The request is **APPROVED**.

A review of the file record indicates that Thomas W. Tolpin: (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, Thomas W. Tolpin has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS W. DEMARCO
2304 CHERRY VALLEY ROAD
WOODSTOCK, IL 60098

cc: THOMAS M. DEMARCO
DEMARCO MAXVAC CORPORATION
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CHICAGO, IL 60606

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of

Thomas M. DeMarco
Application No. 11/435,661
Filed: May 17, 2006
Attorney Docket No. 2974/95254

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 5, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 2882 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/435,661	05/17/2006	Thomas M. DeMarco	2974/95254

CONFIRMATION NO. 6147

POWER OF ATTORNEY NOTICE

Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606-3945

OC000000030013943

Date Mailed: 05/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/05/2007.

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

/amwise/

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,665	05/17/2006	Adriaan Jeroen Wijngaarden	29250-002342/US/CPA	6114

22046 7590 05/25/2010
Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

EXAMINER
GARY, ERIKA A

ART.UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
05/25/2010	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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill NJ 07974

In re Application of	:	
WIJNGAARDEN, ADRIAAN JEROEN, et al.	:	
Application No. 11/435,665	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO RESTART PERIOD
For: **METHOD AND APPARATUS FOR CELLULAR COMMUNICATION OVER DATA NETWORKS**	:	

This is a decision on the Petition to Reset the Period for Reply which is treated as a petition under 37 CFR § 1.181(a) filed April 15, 2010. No fee is required.

Petitioner requests 1.) that the statutory period for replying to the Office Action mailed on November 12, 2009 be reset in connection with the subject application; 2.) that the Correspondence Address and Customer Number for the subject application be corrected to match the Correspondence Address and Customer Number put forth in the Power of Attorney and Change in Correspondence Address submitted on June 27, 2007 and accepted by the USPTO on July 10, 2007; 3.) that the November 12, 2009 Office Action be remailed to the corrected Correspondence Address with the response period starting on the remailed date.

Petitioner alleges that: (1) the USPTO mailed the November 12, 2009 Office Action to the incorrect Correspondence Address, and the November 12, 2009 Office Action was not received by Harness, Dickey, & Pierce, P.L.C. until April 8, 2010, within two weeks of this petition filing; (2) a substantial portion of the original reply period has elapsed because the Office Action was mailed over five months ago; and (3) the above evidence in Exhibits A-D establish that the November 12, 2009 Office Action was not received or docketed for response due at the correct Correspondence Address until April 8, 2010. As such, it is respectfully requested that the statutory period for response be reset from the date of which the New Office Action will be remailed to the updated, corrected Correspondence Address under MPEP § 710.06.

A review of the file record indicates that a revocation of power of attorney and change in correspondence address request was filed was filed on June 27, 2007. In response to the revocation of power of attorney request, a notice of Acceptance of Power of Attorney was mailed on July 10, 2007. On August 05, 2008, a Correspondence Address/Fee Address Change notice was mailed changing the Customer Number to 22046 and the address to that of the assignee:

DOCKET ADMINISTRATOR
LUCENT TECHNOLOGIES INC.
Room 2F-192
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974-0636

Subsequently a restriction requirement (08/20/09) and a non final rejection (11/12/09) have been mailed to this address. A subsequent response by the applicant was made in both actions on October 23, 2009 and April 15, 2010 respectively.

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

Since applicant has responded to the action office action November 12, 2009, the Office action will not be re-mailed. All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Wanda L Walker

Wanda L. Walker
Director
Technology Center 2600
Communications

cc:

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Jeong Hyun Kim	: DECISION ON REQUEST FOR
Patent Number	: 7643111	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **591** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 DEPARTMENT OF COMMERCE
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 05/18/2010

Applicant : Jeong Hyun Kim
Patent Number : 7643111
Issue Date : 01/05/2010
Application No : 11/435,679
Filed : 05/17/2006

: 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 **641** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,686	05/18/2006	Kyu Shik Shin	116511-00193	6928

7590 02/27/2008
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER
FRANTZ, JESSICA L

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
02/27/2008	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

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Adjustment date: 02/29/2008  KKING1
05/19/2006 EAYALEW1 00000039 11435686
02 FC:1111                    -500.00 OP
04 FC:1202                    -500.00 OP
05 FC:1203                    -360.00 OP
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Repln. Ref: 02/29/2008 KKING1   0016030600
DA#:232185   Name/Number:11435686
FC: 9204                    $1360.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Liza J. Davis	: DECISION ON REQUEST FOR
Patent Number	: 7572625	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Khemdut Purang and	:	
Mark Plutowski	:	DECISION REFUSING STATUS
Application No. 11/435,691	:	UNDER 37 CFR 1.47(a)
Filed: May 16, 2006	:	
Atty Docket No. 080398.P654	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47" filed August 14, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 16, 2006, without a fully executed oath or declaration. Accordingly, on June 9, 2006, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee and the late surcharge.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1). Petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioner alleges that the non-signing inventor received a copy of the final draft of the application via 3-mail, but that the non-signing inventor did not thereafter execute the declaration.

Petitioner is 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 at the non-signing inventor's last know address, typically a residential address. It is noted that petitioner states that another copy of the Declaration/Power of Attorney was sent on June 30, 2006 by certified mail to Mr. Purang at his last known address.

Rule 47 applicants have not submitted adequate proof that inventor Purang refuses to join in the application. Refusal by inventor Purang cannot be inferred as the evidence submitted indicates that the application papers were not delivered to him at his last known address, but rather sent via e-mail. It cannot be inferred that he is refusing to sign by his conduct in not responding where it has not been shown that the inventor received and was able to read the application papers sent by e-mail. His failure to respond may simply reflect that he was unable to open and read the application as e-mailed.

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 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.

Moreover, to the extent that petitioner continues to communicate with the inventor via e-mail, any renewed petition must be accompanied by evidence which sufficiently establishes that the copy of the application papers forwarded to the inventor via e-mail was in a form that could be read and comprehended by the intended recipient. Typically a non-signing inventor would indicate receipt of the e-mail and referenced attachments via return e-mail in a 37 CFR 1.47(a) scenario.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JAN 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Khemdut Purang and Mark Plutowski	:	DECISION GRANTING STATUS
Application No. 11/435,691	:	UNDER 37 CFR 1.47(a)
Filed: May 16, 2006	:	
Attorney Docket No. 080398.P654	:	

This is a decision on the petition filed, September 28, 2007, requesting reconsideration of a decision mailed July 31, 2007, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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KHEMDUT PURANG
4390 ALBANY DRIVE, #42
SAN JOSE, CA 95129

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of
Khemdut Purang and Mark Plutowski
Application No. 11/435,691
Filed: May 16, 2006
For: ORDERING ARTISTS BY OVERALL DEGREE OF INFLUENCE

Dear Mr. Purang:

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 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 (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE PLC
PO BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of	:	
Tomoaki Hattori	:	
Application No. 11/435,726	:	DECISION ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 119319.01	:	

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS", filed June 29, 2006, to accord the above identified application a filing date of May 18, 2006, with pages 44-45 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on May 18, 2006. However, on June 9, 2006, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application". Applicants were notified that the application papers had been accorded a filing date; however, pages 44-45 of the specification appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy pages 44-45. Applicant maintains that the application as originally filed included pages 44-45. In support thereof, applicant submitted a postcard receipt

identifying this application, itemizing "47 pp. spec." as enclosed, bearing a United States Patent and Trademark Office date-stamp of May 18, 2006, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition fee has been refunded to Deposit Account No. 18-1470.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 18, 2006, using the application papers received in the Office on that date and pages 44-45 of the specification as resupplied on petition filed June 29, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 04 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,501,717	:	
Issue Date: March 10, 2009	:	
Application No. 11/435,729	:	ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. CHEN4210/JJCJS	:	

This is a decision on the petition filed December 11, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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

Patent No. : 7,501,717 B2
Ser. No. : 11/435,729
Inventor(s) : Chen
Issued : Mar. 10, 2009
Title : APPARATUS AND METHOD FOR DRIVING DIFFERENT FANS
Docket No. : CHEN4210/JJC/JS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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HONEYWELL/BSKB
PATENT SERVICES
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Allen H. Simpson	: DECISION ON REQUEST FOR
Patent Number	: 7632435	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **625** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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NOV 1 6 2009

OFFICE OF PETITIONS

In re Patent No. 7,554,931	:	
Issue Date: June 30, 2009	:	
Application No. 11/435,739	:	ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. ZHOU3003/JJC/KDW	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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

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

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

March 31, 2010

Zachary S.Stern
Oblon, Spivak McClelland, Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314

Patent No: 7,672,389 B2
Application No: 11/435,743
Applicant: Arnaud Gueguen
Issued: March 2, 2010
Title: **METHOD FOR TRANSMITTING SYMBOLS THROUGH AT LEAST A COMMUNICATION CHANNEL**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322/1.323.

The alleged error appearing in the printed patent is an 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.

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

Further correspondence concerning this matter should be filed and directed to Decision & Certificate of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Digg, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

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

Mail Date: 04/21/2010

Applicant	: Jaroslav Hynecek	: DECISION ON REQUEST FOR
Patent Number	: 7633134	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **583** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Jaroslav Hynecek
Patent Number : 7633134
Issue Date : 12/15/2009
Application No : 11/435,771
Filed : 05/18/2006

: 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 **612** 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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Yoneda	:	ON APPLICATION FOR
Application No. 11/435,781	:	PATENT TERM ADJUSTMENT
Filed: May 18, 2006	:	
Attorney Docket No. 09812.0731	:	
	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed October 8, 2009. This petition is properly treated under 37 CFR 1.705(b). Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred sixty-nine (369) days to three hundred seventy-two (372) days.

The request for review of the patent term adjustment is **GRANTED.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred seventy-two (372)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 10, 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 the patent term adjustment to date is 369 days. Applicant disputes the 3-day reduction for the submission of the information disclosure statements (IDS) on April 7, 2009.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 369 days is incorrect. The 3-day reduction pursuant to 37 CFR 704 (c)(8)is not warranted. The record shows that in response to the January 8, 2009 final Office action a request for continued examination (RCE), an amendment and IDS were submitted on April

7, 2009. Office records incorrectly show that an RCE was filed on April 4, 2009, thus a reduction of 3 days pursuant to 37 CFR 1.704(c)(8) was improperly taken for submission of the IDS on April 7, 2009.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 372 days.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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 matter is being referred to the Office of Data Management for issuance of the patent.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Thursday
Date: 12/17/2009

PALM INTRANET

Time: 18:40:33

PTA Calculations for Application: 11/435781			
Application Filing Date:	05/18/2006	PTO Delay (PTO):	372
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	372
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
55	07/10/2009	MAIL NOTICE OF ALLOWANCE			
54	07/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	07/07/2009	CASE DOCKETED TO EXAMINER IN GAU			
52	07/07/2009	ISSUE REVISION COMPLETED			
51	07/07/2009	DOCUMENT VERIFICATION			
50	07/06/2009	NOTICE OF ALLOWABILITY			
49	04/07/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	01/12/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	04/21/2009	DATE FORWARDED TO EXAMINER			
44	04/07/2009	RCE- AF PROCESSED			
43	04/21/2009	DATE FORWARDED TO EXAMINER			
42	04/04/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	04/21/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	04/07/2009	REFERENCE CAPTURE ON IDS			
39	04/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	42
38	04/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/07/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	03/13/2009	MAIL ADVISORY ACTION (PTOL - 303)			
35	03/12/2009	ADVISORY ACTION (PTOL-303)			
34	03/06/2009	DATE FORWARDED TO EXAMINER			

33	03/04/2009	AMENDMENT AFTER FINAL REJECTION			
32	01/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	01/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	01/08/2009	MAIL FINAL REJECTION (PTOL - 326)			
29	01/05/2009	FINAL REJECTION			
28	11/13/2008	DATE FORWARDED TO EXAMINER			
27	10/24/2008	RESPONSE AFTER NON-FINAL ACTION			
26	10/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	07/24/2008	MAIL NON-FINAL REJECTION	372		-1
24	07/21/2008	NON-FINAL REJECTION			
20	05/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	10/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	06/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
15	06/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	10/23/2006	REFERENCE CAPTURE ON IDS			
13.7	10/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	10/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/31/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	05/18/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10.7	05/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/29/2006	APPLICATION DISPATCHED FROM OIPE			
8	08/29/2006	APPLICATION IS NOW COMPLETE			
7	08/10/2006	ADDITIONAL APPLICATION FILING FEES			
6	08/10/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	05/31/2006	CLEARED BY OIPE CSR			
2	05/24/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/18/2006	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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/435,843	05/18/2006	Claes Friberg	290916US8	7452

7590 02/02/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
HUSON, GREGORY L

ART UNIT	PAPER NUMBER
3751	

NOTIFICATION DATE	DELIVERY MODE
02/02/2009	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
02/04/2009 0030066267

Credit Card Refund Total: $1200.00

Am Exp..: XXXXXXXXXXX1006

Adjustment date: 02/04/2009 NFARMER
05/22/2006 HMARZI1 00000088 11435843
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP
05 FC:1202 -500.00 OP

FORM PET651G (Rev. 08/07)

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Terry W. Kramer, Esq.
Kramer & Amado, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 07/30/2010

Applicant	: Dion Pike	: DECISION ON REQUEST FOR
Patent Number	: 7653052	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/435,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

Applicant	: Katsuhiko Morioka	: DECISION ON REQUEST FOR
Patent Number	: 7639990	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/435,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **728** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAILED

AUG 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Samuel Zellner et al.	:	
Application No. 11/435,910	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. 20009.0225US01 (05-0098)	:	FROM RECORD
	:	

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 7, 2009.

The request is **APPROVED**.

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

The request was signed by Jeramie J. Keys on behalf of attorney/agents of record. All attorneys/agents of record have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/435,910	05/17/2006	Samuel Zellner	20009.0225US01 (BS05-0098

CONFIRMATION NO. 7565

POWER OF ATTORNEY NOTICE

OC000000037334559

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 08/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2009.

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

/kainabinet/

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

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

Mail Date: 04/20/2010

Applicant	: David M. Blitzer	: DECISION ON REQUEST FOR
Patent Number	: 7593878	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,924	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: David John Simpson	: DECISION ON REQUEST FOR
Patent Number	: 7632661	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,930	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Yoshihiro Ueta	: DECISION ON REQUEST FOR
Patent Number	: 7579627	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/435,932	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **502** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DEC 11 2006
OFFICE OF PETITIONS

In re Application of :
Chen et a. : DECISION ON PETITION
Application No. 11/435,948 :
Filed: May 18, 2006 :
Atty Docket No. 5207-0138PUS1 :

This is in response to the REPLY TO NOTICE OF OMITTED ITEM IN A NONPROVISIONAL APPLICATION (PTO MISPLACED PAPERS) filed August 11, 2006, which is properly considered as a petition under § 1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of May 18, 2006, with figure 11 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on May 18, 2006. However, on June 12, 2006, the Initial Patent Examination Division mailed applicants a NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had been accorded a filing date; however, figure 11 appeared to have been omitted from the application.

In response, applicants filed the instant petition (and petition fee). Applicants maintain that the drawings (23 sheets, including Figure 11) were received by the U.S. Patent and Trademark Office on May 18, 2006, as part of the complete application. In support thereof, applicants submit a copy of their date-stamped postcard. The petition also includes a copy of Figure 11 as petitioner maintains it was originally filed on May 18, 2006.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of

petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on May 18, 2006, and the items filed therewith were assigned Application No. 11/435948; 2) it specifically identifies the items being filed, including "23 Drawings (23 sheets)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 23 sheets of drawings, were filed on May 18, 2006.

The application papers already considered received in the Office on May 18, 2006, were reviewed along with Figure 11 submitted on petition. These papers together constitute the items described on the postcard receipt as "23 Drawings (23 sheets)." It is concluded that petitioner has shown that Figure 11 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 02-2448, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of May 18, 2006 using the application papers received in the Office and presently accorded that date; and the 1 sheets of drawings (including figure 11) re-supplied on petition filed August 11, 2006; and

- for indication in Office records that 23 sheets of drawings were present in the application on filing.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DOROTHY S. MORSE
515 PARK DRIVE, NW
BRADENTON FL 34209

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of	:	
WYLES	:	
Application No. 11/435,971	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0605-WYLES	:	37 CFR 1.102(c)(1)
	:	

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

The petition is **GRANTED**.

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

The instant petition includes the driver's license of Walter E. Wyles, attesting to his age. 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 1753 for action on the merits commensurate with this decision.

for David Bucci
Petitions Examiner
Office of Petitions

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JUL 12 2007

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:
Xuejun Huang Parsons et al	:
Serial No.: 11/435,991	: PETITION DECISION
Filed: May 17, 2006	:
Attorney Docket No.: BURN-0007/04-020	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 14, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition lacks the required amendment to the specification as indicated by applicants. Applicants should submit a renewed petition accompanied by the required amendment as a separate paper. No additional petition fee will be required.

The petition is **DISMISSED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Purang and Plutowski :
Application No. 11/436,011 :
Filed: May 16, 2006 :
Attorney Docket No. 80398.P650 :
For: Using a Community Generated :
Web Site for Metadata :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 23, 2006.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE CA 92612

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APR 16 2008

In re Application of

LUKACSKO, Alison B.
Application No. 11/436,036
Filed: May 16, 2006
Attorney Docket No. **LUK1.PAU.03.B**

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 20, 2008 and re-submitted on March 27, 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 Vic Lin behalf of all attorneys of record who are associated with customer No. 23386. All attorneys/agents associated with the Customer Number 23386 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ALISON B. LUKACSKE**
11 BROOKFIELD WAY
WEST WINDSOR, NJ 08560

cc: **STEFAN KIRCHANSKI**
2049 CENTURAY PARK EAST
SUITE 2100
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
www.uspto.gov

Birch Stewart Kolasch & Birch
P.O. Box 747
Falls Church, Virginia 22040-0747

5/13/09

Art Unit 3765

In re Application of	:	
Satoko Sakabe et al.	:	
Serial No. 11/436,037	:	DECISION ON PETITION
Filed: May 18, 2006	:	
For: Brassiere	:	

In the petition under 37 CFR 1.48(b) filed November 6, 2008, applicant request that Keigo Goda be deleted as an inventor of the above named invention as he is no longer an inventor of the invention now being claimed. Applicant has provided a signed request per 37 CFR 1.33(b) and the appropriate processing fee set forth in 37 CFR 1.17(i).

All requirements set forth in 37 CFR 1.48 have been met by applicants' petition.

The petition is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

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STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :

NOVOBRANTSEVA, et al. :
Application No. 11/436,055 :
Filed: May 18, 2006 :
Attorney Docket No. **2159.0530002/EKS/FRC/M-M** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 6, 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SIDLEY AUSTIN, LLP**
1501 K STREET NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	
Trace Liggett	:	
Application No. 11/436,061	:	DECISION ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. 307534-85222	:	

This is a decision on the petition, filed January 4, 2010, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the final rejection mailed April 17, 2009.

The petition states that a reply was timely submitted on October 19, 2009 (October 17, 2009, being a Saturday). To support this assertion, the petitioner has submitted a copy of the response (Notice of Appeal), along with a three month extension of time/fee. A review of Office records for the above-identified application show that a Notice of Appeal accompanied by a three month extension of time/fee was received in the USPTO on October 19, 2009.

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

Petitioner is reminded of 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)). No new time period applies for the above matter.

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

This matter is being referred to Technology Center AU 2167 to await the filing of an Appeal Brief accompanied by the fee required by 37 CFR 41.20(b)(2).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 04/21/2010

Applicant	: F. Anthony Headley JR.	: DECISION ON REQUEST FOR
Patent Number	: 7594928	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 04/21/2010

Applicant	: F. Anthony Headley JR.	: DECISION ON REQUEST FOR
Patent Number	: 7594928	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

Mail Date: 04/20/2010

Applicant	: Joon-Hoo Choi	: DECISION ON REQUEST FOR
Patent Number	: 7615783	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: 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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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

Applicant	: Jerold Michael Visin	: DECISION ON REQUEST FOR
Patent Number	: 7628030	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: 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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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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OFFICE OF PETITIONS

In re Application of	:	
John Kuznarik	:	
Application No. 11/436,081	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 36648-229549	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 5, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3612 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent of	:	
Foulger et al.	:	
Application No. 11/436094	:	DECISION
Filing or 371(c) Date: 05/18/2006	:	ON PETITION
Attorney Docket Number:	:	
2018.0010001	:	

This is a decision on the Response to "Petition Under 37 C.F.R. 1.53(e)(2)", filed August 8, 2006, requesting the application be accorded a filing date of May 18, 2006, including Figures 13, 14A, 14B and 14C described in the specification.

The petition is **granted**.

Background

The application was deposited on May 18, 2006. On June 8, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing; however, Figures 13, 14A, 14B and 14C described in the specification appeared to have been omitted from the application.

The instant petition

Applicant files the instant petition and avers that Figures 13, 14A, 14B and 14C were included among 23 sheets of drawings filed with the application on May 18, 2006. In support of this assertion, Applicant provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 23 sheets of drawings, including Figures 13, 14A, 14B and 14C, by this Office on May 18, 2006.

Applicable Law, Rules and MPEP

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

Accordingly, the petition to accept Figures 13, 14A, 14B and 14C as filed on May 18, 2006 is granted.

The copy of Figures 13, 14A, 14B and 14C, filed with the instant petition, will be used for examination purposes.

The petition fee has been refunded to deposit account 19-0036 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 18, 2006, and an indication that Figures 13, 14A, 14B and 14C described in the specification were included among 23 sheets of drawings filed on May 18, 2006, using Figures 13, 14A, 14B and 14C filed with the instant petition.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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In re Application of	:	
Carlson et al.	:	
Application No. 11/436,102	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1035-007US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 23, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant 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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In

addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petition should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

It appears that the chain is missing between Application No. 10/109,601 and 10/100,749. Petitioner contends that 10/109,601 is a continuation-in-part of 10/100,749. A review of USPTO records does not appear to support this claim.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] identifying a proper nonprovisional application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is required.

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

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

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of	:	
Carlson et al.	:	
Application No. 11/436,102	:	DECISION GRANTING PETITION
Filed: May 17, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1035-007US01	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant 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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In

addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petition should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

Currently, it appears that the chain is missing between Application No. 10/109,601 and 10/100,749. Petitioner contends that 10/109,601 is a continuation-in-part of 10/100,749 although a review of USPTO records does not appear to support this claim. Petitioner further contends that the Office did not properly record the benefit claim in Application No. 10/100,749, now Patent No. 7,149,734 and as a result the claim of priority was "not properly printed on the front page of U.S. Paten 7,149,734." Currently, according to published Patent No.7,149,734 Application No. 10/109,601 is a "Continuation-in-part of application No. 09/900,101 filed on Jul. 6, 2001".

Further, it is noted that petitioner has filed a Certificate of Correction request on April 8, 2010 for Patent No. 7,149,734. Petitioner is advised that in order for the Certificate of Correction request to be considered that a petition under 37 CFR 1.78(a)(3) is required.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] identifying a proper nonprovisional application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER NH 03104

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OFFICE OF PETITIONS

In re Application of	:	
Durand et al.	:	DECISION ON PETITION
Application No. 11/436,110	:	TO WITHDRAW
Filed: May 17, 2006	:	FROM RECORD
Attorney Docket No. INFUSAFE-001XX	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 26, 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 request was signed by Daniel J. Bourque on behalf of all attorneys of record associated with Customer Number 28452. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, 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.*

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. Landiorio Teska & Coleman is neither the first named inventor nor the assignee who properly became of

record under 37 CFR 3.71. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed January 15, 2010 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
OLSSON, Roger et al.	:	
Application No. 11/436,130	:	DECISION ON PETITION
Filed: May 16, 2006	:	TO WITHDRAW
Attorney Docket No. **65167.00019**	:	FROM RECORD
	:	

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 07, 2007 and re-submitted 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 April 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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DAN M. DE LA ROSA, ESQ.
SUITE 27H
345 E. 80TH ST.
NEW YORK, NY 10021

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OFFICE OF PETITIONS

In re Application of	:	
Demars	:	
Application No. 11/436,135	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. P-0097US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed June 7, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

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

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is accompanied by an Affirmation by an applicant, Robert Demars, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 3637 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
Acharya et al.
Application No.11/436,142
Filed: May 16, 2006

Attorney Docket Number: 080398.P649
Title of Invention: Clustering and Classification of Multimedia Data

DECISION GRANTING PETITION

This is a decision on the "Petition to Assign Earlier Filing Date Pursuant to 37 CFR 1.10(c) filed on July 25, 2006, requesting that the above-identified application be accorded a filing date of May 16, 2006, rather than the presently accorded filing date of May 17, 2006.

Petitioner contends the application was deposited in Express Mail service on May 16, 2006. In support, petitioner supplied a copy of Express Mail track and confirm No. EV839872283US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A copy of the Express Mail Label has a date-in of May 16, 2006. 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 May 16, 2006.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **May 16, 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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of
Chiranjit Acharya, Khemdut Purang,
Tsunayuki, Mark Plutowski and Takashi Usuki
Application No.11/436,142
Filed: May 16, 2006
Attorney Docket No. 080398.P649

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed July 25, 2006.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors Acharya and Purang have 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 inventors' last known addresses. The non-signing inventors' refusal and failure to respond to the application mailing sufficiently establishes they refuse to execute the application papers.

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

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

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Alexandria, VA 22313-1450
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Khemdut Purang
4390 Albany Drive
San Jose, CA 95129

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Chiranjit Acharya, Khemdut Purang,
Tsunayuki, Mark Plutowski and Takashi Usuki : LETTER
Application No.11/436,142
Filed: May 17, 2006
Attorney Docket No. 080398.P649

Dear Mr. Purang :

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SEVENTH FLOOR
LOS ANGELES CA 90025-1030
ATTN: SHERYL HOLLOWAY

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Chiranjit Acharya
2290 Lucretia Ave. Apt 2
San Jose, CA 95122

In re Application of
Chiranjit Acharya, Khemdut Purang,
Tsunayuki, Mark Plutowski and Takashi Usuki : LETTER
Application No.11/436,142
Filed: May 17, 2006
Attorney Docket No. 080398.P649

Dear Mr. Acharya :

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030
ATTN: SHERYL HOLLOWAY

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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CHARLES G. CALL
20 EAST GOETH ST CH1
CHICAGO IL 60610

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DEC 07 2009
OFFICE OF PETITIONS

In re Application of :
Logan :
Application No. 11/436,147 : DECISION
Filed: 17 May, 2006 :
Attorney Docket No. G-16 :

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

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 6 January, 2009, with reply due absent an extension of time on or before 6 February, 2009.

The application went abandoned by operation of law after midnight 6 February, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Election and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

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

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

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3744 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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436 SEVENTH AVENUE
PITTSBURGH PA 15219

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Wintermantel et al.	:	
Application No. 11/436184	:	ON PETITION
Filing or 371(c) Date: 05/17/2006	:	
Attorney Docket Number: 0115-060701	:	

This is a decision on the "Petition under 37 CFR § 1.183 for Suspension of Rules," filed September 18, 2007, to waive the requirement under 37 CFR 1.67 that all of the inventors sign a supplemental declaration.

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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

The application as-filed listed seven inventors. Applicant filed the present reissue application and a supplemental declaration; however, the signature of inventor Dr. Mario Billia is missing from the supplemental declaration. Applicant files the present petition and provides that Swiss Counsel underwent significant effort to procure the signature of inventor Billia, including sending a letter including the supplemental Reissue Declaration and Power of Attorney to Dr. Billia, which were never returned.

Applicable Law

37 CFR 1.67 states, in pertinent part:

> (a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of §1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.

> (1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires."

Analysis

Applicant's showing is deficient in that proof of the nonsigning inventor's refusal to join in the reissue application has not been established. There is no requirement for a showing under 37 CFR 1.47. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As to proof that the nonsigning inventor refuses to join in the application, the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the 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 CFR 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.

MPEP 409.03(d).

In this instance, Applicant has not presented evidence that a copy of the application papers were sent to the last known address of the non-signing inventor. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor. The MPEP further provides

> 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.

MPEP 409.03(d).

Additionally, Applicant has not provided a statement from a person with firsthand knowledge of the facts alleged putatively evidencing refusal of the nonsigning inventor to join in the application. The petition refers to Swiss counsel's significant efforts to procure the signature of the nonsigning inventor; however, a statement of facts by the person who presented the inventor with the application papers – Mr. Michael Liebetanz - has not been provided.

Conclusion

The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Absent an express refusal to join in the application, Applicant must present a copy of the application to the nonsigning inventor before a refusal to join in the application may be alleged.

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 (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Wintermantel et al.	:	
Application No. 11/436184	:	ON PETITION
Filing or 371(c) Date: 05/17/2006	:	
Attorney Docket Number: 0115-060701	:	

This is a decision on the "Renewed Petition Under 37 CFR § 1.183," filed January 4, 2008, to waive the requirement under 37 CFR 1.67 that all of the inventors sign a supplemental declaration.

The petition is **GRANTED**.

The application as-filed listed seven inventors. Applicant filed the present reissue application and a supplemental declaration; however, the signature of inventor Dr. Mario Billia is missing from the supplemental declaration. Applicant files the present petition and provides that Swiss Counsel underwent significant effort to procure the signature of inventor Billia, including sending a letter including the supplemental Reissue Declaration and Power of Attorney to Dr. Billia, which were never returned.

The September 18, 2007 petition

Applicant filed a petition on September 18, 2007, which was dismissed in a Decision mailed November 2, 2007. The Decision dismissing the petition informed Applicant that the petition failed to provide proof of the nonsigning inventor's refusal to join in the reissue application. The Decision noted that, while there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principals of Rule 47 in determining whether petitioner has demonstrated that this is an extraordinary situation, requiring waiver of the rules.

Applicant had not presented evidence that a copy of the application papers were sent to the last known address of the non-signing inventor. Absent an express refusal to join in the application, Applicant was informed that a copy of the application papers must be presented to the nonsigning inventor, before a refusal to join in the application may be alleged. Additionally, Applicant had not provided a statement from a person with firsthand knowledge of the facts

alleged putatively evidencing refusal of the nonsigning inventor to join in the application. The petition referred to Swiss counsel's significant efforts to procure the signature of the nonsigning inventor; however, a statement of facts by the person who presented the inventor with the application papers – Mr. Michael Liebetanz - had not been provided.

The present Request for Reconsideration of Petition

Petitioner files the present request for reconsideration and includes 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).

Applicable Law, rules and MPEP

37 CFR 1.67 states, in pertinent part:

> (a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of §1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.
>
> > (1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.

37 CFR § 1.183, Suspension of rules, states in pertinent part:

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

Analysis and conclusion

With the present petition, Applicant has demonstrated that Dr. Mario Billia refuses to join in the application.

The REISSUE declaration, filed on September 18, 2007, will be entered, despite the fact that the requirement set forth in 37 CFR 1.67(a)(1) that all the inventors sign a supplemental oath or declaration has not been satisfied.

The application file is being referred to Technology Center Art Unit 1794 for continued 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

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ENGLAND SK4 1BB GB UNITED KINGDOM

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In re Application of :
Erich WINTERMANTEL et al. :
Application No. 11/436,184 :
Filed: May 17, 2006 :
Attorney Docket No. **0115-060701** :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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

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

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.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

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JUL 16 2010

OFFICE OF PETITIONS

In re Application of
Benjamin D. PLESS, et *al.*
Application No. 11/436,191
Filed: May 16, 2006
Attorney Docket No. **459992800200 (N15-01)**

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed July 15, 2010, 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 June 14, 2010, with the issue fee being due on or before September 14, 2010. The issue fee in this case has not been paid.

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Ms. Pamela G. Maher appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Maher desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

The matter is being referred to Technology Center AU 3762 for appropriate processing of the RCE filed July 15, 2010, and for consideration of the concurrently filed information disclosure statement.

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

cc: **PAMELA G. MAHER**
NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW, CA 94043

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
1200 - 19th Street NW, Suite 500
WASHINGTON DC 20036-2402

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OFFICE OF PETITIONS

In re Application of

BYUN, et al.
Application No. 11/436,195
Filed: May 18, 2006
Attorney Docket No. **QOVI-010/00US**

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 19, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SCHWEGMAN LUNDBERG WOESSNER & KLUTH**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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777 – 6TH STREET NW, SUITE 1100
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
BYUN, et al.	:	
Application No. 11/436,195	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. **QOVI-010/00US**	:	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 December 6, 2007.

The request is **NOT APPROVED**.

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

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

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

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of
Xiaoliang ZHANG, et al
Application No. 11/436,197
Filed: May 17, 2006
Attorney Docket No. 600.504US3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **DISMISSED** as moot.

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

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: GLENN M. SEAGER
CROMPTON SEAGER TUFTE LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2420

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6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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OCT 16 2009

OFFICE OF PETITIONS

In re Application of	:
David A. Ferrera et al	:
Application No. 11/436,200	: DECISION ON PETITION
Filed: May 17, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MICRU-74297	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3734 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/436,200	05/17/2006	3734	590	MICRU-74297	21	2

CONFIRMATION NO. 6332

CORRECTED FILING RECEIPT

24201
FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

OC000000038148989

Date Mailed: 10/15/2009

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

Applicant(s)

David A. Ferrera, Manhattan Beach, CA;
Daniel Kurz, Sunnyvale, CA;
Peter Wilson, Foster City, CA;
Crystal K. Sein-Lwyn, Hayward, CA;
Lok A. Lei, San Jose, CA;
Joseph A. Horton, Birmingham, AL;

Power of Attorney:

Gilbert Kovelman--19552
Morley Drucker--19751
Richard Bardin--20365
Craig Bailey--28786
David Parkhurst--29422
James Paul--29967
Paul Feng--35510
James Juo--36177
John Hanley--38171
John Fitzgerald--38881

Domestic Priority data as claimed by applicant

This application is a CON of 10/664,001 09/16/2003 PAT 7,316,701
which is a CON of 09/590,794 06/08/2000 PAT 6,638,291
which is a CIP of 09/140,495 08/27/1998 PAT 6,171,326
and is a CIP of 09/089,328 06/02/1998 PAT 6,090,125
which is a CON of 08/799,439 02/13/1997 PAT 5,766,219
which is a CON of 08/425,106 04/20/1995 PAT 5,645,558

Foreign Applications

If Required, Foreign Filing License Granted: 06/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/436,200**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Three dimensional, low friction vasoocclusive coil, and method of manufacture

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Alfred A. Fressola
Ware, Fressola, Van Der Sluys & Adolphson, LLP
Building Five, Bradford Green
755 Main Street, P.O. Box 224
Monroe, CT 06468

Mail Date: 07/06/2010

Applicant	: Esa-Sakari Maatta	: DECISION ON REQUEST FOR
Patent Number	: 7647081	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/436,203	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

Mail Date: 04/21/2010

Applicant	: Lars Eyde Theill	: DECISION ON REQUEST FOR
Patent Number	: 7569387	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **277** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Peter Jonathan Wyatt	: DECISION ON REQUEST FOR
Patent Number	: 7632489	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **118** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Lee & Hayes, PLLC
C/O Intellevate
P.O.Box 52050
Minneapolis, MN 55402

Mail Date: 05/13/2010

Applicant	: Jing Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7623494	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/436,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **827** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/436,266	05/17/2006	Aaron Keith Chamberlain	5026-US01	8225

67374 7590 05/26/2010
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

EXAMINER
DAHLE, CHUN WU

ART UNIT	PAPER NUMBER
1644	

MAIL DATE	DELIVERY MODE
05/26/2010	PAPER

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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MAY 2 6 2010

Robin M Silva
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

In re Application of	:
Chamberlain et al	:Decision on Petition
Serial No.:11/436,266	:
Filed: 17 May 2006	:
Attorney Docket No.067461-5026-US01	:

This letter is in response to the Petition filed on 22 April 2010 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 21 February 2008.

BACKGROUND AND DISCUSSION

The application, file history and petition have been considered carefully. Applicants request reconsideration of the restriction requirement, including the provisional election of species requirement.

In the response and election filed 19 March 2008, applicant stated:

> Applicant hereby elects the combination of position 308 with amino acid modifications: F, Y, and W and substitution 428L. The functional limitation associated with this combination and the respective amino acid modifications is increased binding to FcRn.
>
> Applicant respectfully reminds the Examiner that position 308 with amino acid modifications: F, Y, and W was elected in the parent application USSN 11/274,065 in response to the Examiner's species election requirement mailed December 28, 2007. Therefore, searching the combination of 308F, Y, and W with a specific amino acid substitution at 428L is not burdensome.

In the first Office action on the merits, the examiner considered the election and stated the following:

> 1. Applicant's species election of combination mutation at position 308 with residues F, Y and W and at position 428 with residue L, filed on March 31, 2008, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
>
> Upon further consideration, the prior art search has been extended to cover all substitutions at position 308.

37 CFR 1.143 states:

> "If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected."

37 CFR 1.144 states, with emphasis added.

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. *A petition will not be considered if reconsideration of the requirement was not requested* (see § 1.181).

Because applicant did not further traverse the restriction requirement beyond requesting a search of positions F, Y and W at position 308, which the examiner agreed to do, the petition will not be considered.

Applicants also argue that there is no requirement to "traverse" an election of species under MPEP 803.02.

This argument has been carefully considered but found non-persuasive.

MPEP 808.01, which is directed towards election of species requirements, discusses traversal in the sense that applicants disagree with the requirement as follows:

> "When a requirement for restriction between either independent or distinct species is made, applicant must elect a single disclosed species even if applicant disagrees with the examiner's restriction requirement."

Additionally, MPEP 818.03(a) states:

> "As shown by the first sentence of 37 CFR 1.143, the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part: "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. . . . The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. . . ." Under this rule, the applicant is required to specifically point out the reasons on which he or she bases his or her conclusions that a requirement to restrict is in error. A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR § 1.111. Thus the required provisional election (see MPEP § 818.03(b)) becomes an election without traverse."

Here, because applicant did not distinctly and specifically point out supposed errors in the restriction requirement, (beyond the extended search for position 308, which the examiner has agreed to) the election has been treated as an election without traverse.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **DISMISSED**.

Any request for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS of the mail date of this petition decision.

The application will be forwarded to the Examiner to consider the papers filed 2 April 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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James P. Broder
Roeder & Broder LLP
9915 Mira Mesa Blvd. Suite 300
San Diego, CA 92131

Mail Date: 04/21/2010

Applicant	: Gerald D. Tynan	: DECISION ON REQUEST FOR
Patent Number	: 7661619	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,268	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 9/25/08

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/436276 Patent No.: 7328950 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: _____

DAVID DUNN
SPE
SUPERVISORY PATENT EXAMINER

3636
Art Unit

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

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of

BRAILAS, Nicholas M. et al.
Application No. 11/436,290
Filed: May 17, 2006
Attorney Docket No. **025908-000110US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2009.

The request is **APPROVED**.

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

The request was signed by Kent Tobin on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Nicholas Brailas 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: **NICHOLAS M. BRAILAS**
567 BRANHAM LANE
SAN JOSE CA 95136

cc: **AMIR SHARIF**
P.O. BOX 6401057
SAN JOSE CA 95164-1057

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LARSON NEWMAN ABEL & POLANSKY, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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DEC 0 8 2008

In re Application of	:	
EGAN, Kenneth W.	:	
Application No. 11/436,294	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. **1009-0010**	:	FROM RECORD
	:	

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 01, 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 Larson on behalf of all attorneys of record who are associated with customer No. 34456. All attorneys/agents associated with the Customer Number 34456 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 15, 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: **KENNETH W. EGAN**
7907 DOWNING STREET
AUSTIN TX 78759

cc: **VIZIONWARE, INC.**
12708 RIATA VISTA CIRCLE #A115
AUSTIN TX 78727

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SQUIRE, SANDERS & DEMPSEY L.L.P.
TWO RENAISSANCE SQUIRE
SUITE 2700
40 NORTH CENTRAL AVENUE
PHOENIX AZ 85004-4498

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of

OPIE, John C.
Application No. 11/436,308
Filed: March 18, 2006
Attorney Docket No. **60458.00050**

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 05, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because the inventors address on the declaration filed September 12, 2006 is not readable.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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DEC 04 2006
OFFICE OF PETITIONS

In re Application of	:	
Koslover	:	
Filed: May 18, 2006	:	ON PETITION
Application No. 11/436,318	:	
Atty. Dkt. No.: SARAX-021A	:	

This decision is in response to the petition filed August 21, 2006 to accord the above-identified application a filing date of May 18, 2006 with Figures 7A-7C as part of the original application as filed.

The application was filed May 18, 2006. The Notice mailed June 20, 2006 indicated that the application had been accorded a filing date but indicates that Figures 7A through 7C appeared to have been omitted from the application as filed.

In response, petitioner argues that the application as deposited included Figures 7A-7C. Petitioner has provided as proof of mailing and proof of receipt of six sheets of drawings (including Figures 7A-7C) a return postcard date stamped by the Office on May 18, 2006. A copy of the drawing sheets containing Figures 7A-7C was submitted herewith.

The original Figures 7A-7C have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of May 18, 2006 is GRANTED.

Since the original of Figures 7A-7C cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. Petitioner may request a refund of the previously submitted petition fee of $400.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 18, 2006.

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

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FEB 12 2007
OFFICE OF PETITIONS

In re Application of	:	
Hogg et al.	:	DECISION ACCORDING STATUS
Application No. 11/436,331	:	UNDER 37 CFR 1.47(a)
Filed: May 18, 2006	:	
Attorney Docket Number: DEP5527	:	

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

The petition is granted.

Applicants showed that the non-signing inventor could not be reached to join in the application. Specifically, applicants stated that they made several attempts to contact Mr. Lim without success. Applicants asserted that they contacted Mr. Lim's former employer and former colleagues in the United Kingdom, as well as conducted searches on the Internet in an attempt to locate Mr. Lim.

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 present petition. Notice of the filing of this application will also be published in the Official Gazette.

The 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Michael Lim
C/o Cad Potential Europe U.K. Limited of Creative Industries Centre
Glaisher Drive
Wolverhampton, WV10 9TG
United Kingdom AIR MAIL

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FEB 12 2007
OFFICE OF PETITIONS

In re Application of	:	
Hogg et al.	:	LETTER
Application No. 11/436,331	:	
Filed: May 18, 2006	:	
Attorney Docket Number: DEP5527	:	

Dear Mr. Lim:

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 Services at (571) 272-3150 or 800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

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JUN 02 2010
OFFICE OF PETITIONS

In re Application of
Yee, et al.
Application No. 11/436,355
Filed: May 18, 2006
Attorney Docket No. 315806.01
For: TECHNIQUES FOR PHYSICAL PRESENCE DETECTION FOR A COMMUNICATIONS DEVICE

ON PETITION

This is a decision on the petition, filed March 31, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the June 30, 2009 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 1, 2009. A Notice of Abandonment was mailed on January 29, 2010.

Applicants have submitted an amendment in reply to the June 30, 2009 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 30, 2009 non-final Office action, and the $1,620.00 petition fee.

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

After the mailing of this decision, the application will be returned to Technology Center AU 2437 for consideration of the amendment filed on March 31, 2010.

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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GOSZ AND PARTNERS LLP
ONE STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
John C. Ariel	:	
Application No. 11/436,359	:	DECISION ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No.	:	
PKHC-P01-027		

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 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 October 10, 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 January 11, 2007. A Notice of Abandonment was mailed on July 2, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of October 10, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

This application is being referred to Technology Center AU 2831 for appropriate action in the normal course of business on the reply received June 28, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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

In re Application of:
BARKDOLL, PATRICK J.
Serial No. 11/436,365
Filed: May 18, 2006
Docket: 505297
Title: GONDOLA PEGBOARD COVERING SYSTEM

3/5/09

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed February 17, 2009 under 37 CFR 1.181 requesting withdrawal of the restriction requirement of October 8, 2008 by rejoining claims 4-7, 9-19 and 22. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement with respect to claims 1-19 mailed on October 8, 2008 is withdrawn. Claims 4-7, 9-19 and 22 will be rejoined and examined along with the elected claims 1-3. In the petition, petitioner did agree that claim 8 contains limitations mutually exclusive from claim 9, thus, claim 8 will remain withdrawn from consideration. The examiner has been directed to issue a new Office action to treat claims 4-7, 9-19 and 22 on the merits as soon as possible.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3724 for the examiner's preparation of an Office action consistent with this decision. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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ROCKWELL COLLINS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
400 COLLINS ROAD NE
M/S 124-323
CEDAR RAPIDS IA 52498

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Wey et al.	:	
Application No. 11/436,367	:	DECISION ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 05CR390/KE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 6, 2009. A Notice of Abandonment was mailed March 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3662 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Chanmin Quanmin Su	: DECISION ON REQUEST FOR
Patent Number	: 7584653	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,386	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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MAY 28 2010

OFFICE OF PETITIONS

In re Application of :
Joseph A. Dicarlo et al :
Application No. 11/436,388 :
Filed: May 18, 2006 :
Attorney Docket No. D0188.70180US01 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 3, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 4, 2009.

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 April 2, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3773 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.

Irvin Dingle
Petition Examiner
Office of Petitions

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Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Stanley Kyle Hayes et al.	:	
Application No. 11/436,407	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. VFX012000103	:	FROM RECORD
	:	

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, 2007.

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

A review of the file record indicates that the power of attorney to Bozicevic, Field & Francis LLP has been revoked by the assignee of the patent application on April 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rimas Lukas**
Vertiflex, Inc.
1351 Calle Avanzado
San Clemente, CA 92673

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Rimas Lukas
Vertiflex, Inc.
1351 Calle Avanzado
San Clemente, CA 92673

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Stanley Kyle Hayes et al.	:	
Application No. 11/436,407	:	ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. VFX012000103	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 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 June 12, 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) was obtained. Accordingly, the application became abandoned on August 15, 2006. The Notice of Abandonment was mailed May 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees ($125); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Rimas Lukas**
1954 Kellogg Ave., Suite 100
Carlsband, CA 92008

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VERTIFLEX, INC.
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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In re Application of	:	
HAYES, Stanley K. et al.	:	
Application No. 11/436,407	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. **65837-8001US3**	:	FROM RECORD
	:	

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 11, 2010.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to VERTIFLEX, INC. has been revoked by the assignee of the patent application on January 13, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PERKINS COIE LLP**
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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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
11/436,413	05/18/2006	3632	2230	FUU 0028 VA	6	38	4

CONFIRMATION NO. 7295

UPDATED FILING RECEIPT

OC000000019458097

23368
DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

Date Mailed: 07/03/2006

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

Applicant(s)

Gordon Dodson, Lewis Center, OH;
Kyozaburo Takagi, Centerville, OH;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/325,451 12/20/2002 PAT 7,047,700
which claims benefit of 60/344,835 12/21/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/436,413

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

Title

Panel forming system and components

Preliminary Class

052

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.

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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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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :	:
Schillinger et al.	:
Serial No.: 11/436,428	: PETITION DECISION
Filed: May 18, 2006	:
Attorney Docket No.: 1463-004	

This is in response to the petition under 37 CFR § 1.59(b), filed August 9, 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 August 9, 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**. Applicants 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 Manager
Technology Center 1600

FEB 22 2008

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CASTLE ROCK CO 80108

In re Application of :	:
Schillinger et al.	: PETITION DECISION
Serial No.: 11/436,428	:
Filed: May 18, 2006	:
Attorney Docket No.: 1463-004	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 15, 2008, 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 August 9, 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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In re Application of :	:
Schillinger et al.	:
Serial No.: 11/436,437	: PETITION DECISION
Filed: May 18, 2006	:
Attorney Docket No.: 1463-007	

This is in response to the petition under 37 CFR § 1.59(b), filed August 9, 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 August 9, 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**. Applicants 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 Manager
Technology Center 1600

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CASTLE ROCK CO 80108

In re Application of :	:
Schillinger et al.	: PETITION DECISION
Serial No.: 11/436,437	:
Filed: May 18, 2006	:
Attorney Docket No.: 1463-007	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 15, 2008, 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 August 9, 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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OFFICE OF PETITIONS

In re Application of	:
Paul Edwards	: DECISION REFUSING STATUS
Application No. 11/436,458	: UNDER 37 C.F.R. § 1.47
Filed: May 18, 2006	:
Atty Docket No. 018778-9297	:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.47(a)" filed October 2, 2006.

The petition is **DISMISSED**.

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

For the reasons set forth herein, if filing of a request for reconsideration of 37 C.F.R. §1.47(a) is inappropriate, filing of a 37 C.F.R. 1.48 petition (or other option determined to be appropriate by applicant i.e., filing of a continuing application) is necessary to correct any error in the inventorship.

The above-identified application was filed on May 18, 2006, without an executed oath or declaration. Accordingly, on June

9, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicant filed a declaration executed by and identifying only Paul Edwards as inventor; the surcharge under § 1.16(l); and the instant petition under § 1.47(a)(and fee). This response was made timely by an accompanying petition and fee for extension of time within the second month. Applicant asserts that status under § 1.47(a) is proper because joint inventors Nelson and Berthelot are unwilling to sign the declarations and join in the application.

The petition includes adequate proof that inventors Nelson and Berthelot have refused to join in the application, after having been presented with the application papers. The required petition fee of $200 has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of the non-signing inventors. However, the petition does not include a declaration executed by inventor Edwards on behalf of inventors Nelson and Berthelot. Rather, the petition included a one-page executed declaration identifying only inventor Edwards.

Petitioner may request reconsideration of the petition under 1.47(a) with a showing that a declaration executed by inventor Edwards on behalf of himself and on behalf of the non-signing inventors was in fact filed (i.e., that there is an error in the receipt of the one-page declaration).

Otherwise, the petition is not grantable because petitioner by his filing of an executed declaration identifying Edwards as the inventive entity has rendered 1.47(a) status inapplicable. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the reexecution of another oath or declaration. A first-filed oath or declaration under 37 CFR 1.63 executed by less than all of the inventors initially identified will, under 37 CFR 1.48(f)(1), determine the inventorship in the application. Any subsequent oath or declaration filed by a different inventive entity will not be effective under 37 CFR 1.48(f)(1) to correct the inventorship that was specified in the first-filed oath or declaration.

Thus, with the filing of the first-filed executed declaration on October 2, 2006, applicant determined the inventive entity to be sole inventor Paul Edwards. As the Office has a declaration executed by all of the named inventors, 1.47 status is inappropriate. Petitioner cannot submit a second-filed declaration executed by inventor Edwards on behalf of himself and on behalf of Nelson and Berthelot as 1.47 status is inapplicable to subsequently filed declarations.

In addition, applicant may not simply file a new declaration under 1.48(f)(1) to correct the inventive entity. A petition under 1.48(a) to correct inventorship is required. If all of the inventors will not re-execute the declaration or sign statements that the error in inventorship occurred without deceptive intent then separate petitions under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors reexecute the declaration and that each of the added inventors make the statement, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration and execute the statement, or whether the nonsigning inventor could not be reached.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Suite 2000
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of	: **CORRECTED**[1]
Paul Edwards	: DECISION REFUSING STATUS
Application No. 11/436,458	: UNDER 37 C.F.R. § 1.47
Filed: May 18, 2006	:
Atty Docket No. 018778-9297	:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.47(a)" filed October 2, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

For the reasons set forth herein, if filing of a request for reconsideration of 37 C.F.R. §1.47(a) is inappropriate, filing of a 37 C.F.R. 1.48 petition (or other option determined to be appropriate by applicant i.e., filing of a continuing application) is necessary to correct any error in the inventorship.

---

[1] The instant corrected decision is being issued to remove the language in the previous decision that "Failure to respond will result in abandonment of the application." Given the facts of this case, applicants are not required to respond to this decision to continue prosecution of the application.

The above-identified application was filed on May 18, 2006, without an executed oath or declaration. Accordingly, on June 9, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicant filed a declaration executed by and identifying only Paul Edwards as inventor; the surcharge under § 1.16(l); and the instant petition under § 1.47(a)(and fee). This response was made timely by an accompanying petition and fee for extension of time within the second month. Applicant asserts that status under § 1.47(a) is proper because joint inventors Nelson and Berthelot are unwilling to sign the declarations and join in the application.

The petition includes adequate proof that inventors Nelson and Berthelot have refused to join in the application, after having been presented with the application papers. The required petition fee of $200 has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of the non-signing inventors. However, the petition does not include a declaration executed by inventor Edwards on behalf of inventors Nelson and Berthelot. Rather, the petition included a one-page executed declaration identifying only inventor Edwards.

Petitioner may request reconsideration of the petition under 1.47(a) with a showing that a declaration executed by inventor Edwards on behalf of himself and on behalf of the non-signing inventors was in fact filed (i.e., that there is an error in the receipt of the one-page declaration).

Otherwise, the petition is not grantable because petitioner by his filing of an executed declaration identifying Edwards as the inventive entity has rendered 1.47(a) status inapplicable. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the reexecution of another oath or declaration. A first-filed oath or declaration under 37 CFR 1.63 executed by less than all of the inventors initially identified will, under 37 CFR 1.48(f)(1), determine the inventorship in the application. Any subsequent oath or declaration filed by a different inventive entity will not be

effective under 37 CFR 1.48(f)(1) to correct the inventorship that was specified in the first-filed oath or declaration.

Thus, with the filing of the first-filed executed declaration on October 2, 2006, applicant determined the inventive entity to be sole inventor Paul Edwards. As the Office has a declaration executed by all of the named inventors, 1.47 status is inappropriate. Petitioner cannot submit a second-filed declaration executed by inventor Edwards on behalf of himself and on behalf of Nelson and Berthelot as 1.47 status is inapplicable to subsequently filed declarations.

In addition, applicant may not simply file a new declaration under 1.48(f)(1) to correct the inventive entity. A petition under 1.48(a) to correct inventorship is required. If all of the inventors will not re-execute the declaration or sign statements that the error in inventorship occurred without deceptive intent then separate petitions under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors reexecute the declaration and that each of the added inventors make the statement, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration and execute the statement, or whether the nonsigning inventor could not be reached.

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By FAX: (571) 273-8300
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ATTN: NANCY JOHNSON

By hand: Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

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Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Suite 2000
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OFFICE OF PETITIONS

In re Application of	:
Paul Edwards	: DECISION ON PETITION
Application No. 11/436,458	: UNDER 37 C.F.R. 1.183
Filed: May 18, 2006	:
Atty Docket No. 018778-9297	:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.183" filed June 28, 2007.

The above-identified application was filed on May 18, 2006, without an executed oath or declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed June 9, 2006, on October 2, 2006, applicant filed a petition under 37 CFR 1.47(a). The petition included a declaration executed by and identifying only Paul Edwards as inventor. Applicant asserted that status under § 1.47(a) was proper because joint inventors Nelson and Berthelot were unwilling to sign the declarations and join in the application.

By decision mailed February 23, 2007, the petition under 37 CFR 1.47(a) was dismissed. Petitioner was advised that the first-filed declaration executed by and identifying only Paul Edwards as sole inventor set the inventorship of the application and rendered a petition under 37 CFR 1.47(a) unnecessary as all of the inventors had signed the declaration of record. Further, petitioner was advised that a petition under 37 CFR 1.48, and if applicable under 37 CFR 1.183, was necessary to correct the inventorship to add inventors Nelson and Berthelot.

On June 28, 2007, the instant request under § 1.48(a) with a petition under 37 C.F.R. 1.183 to waive the requirement of 37 CFR 1.64 that (1) each of the actual inventors re-execute the declaration, and (2) each of the added inventors make the statement that the error in inventorship occurred without deceptive intent.

37 CFR 1.48(a) requires that the amendment 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 and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment. See MPEP 605.07.

Petitioner has satisfied requirements (1), (4) and (5) above. The petition specifically requests the addition of inventors Nelson and Berthelot. The petition includes a statement from inventor Berthelot that the inventorship error occurred without deceptive intent. Petitioner has paid the processing fee. The petition includes a statement signed by Brad Johnston as Secretary on behalf of the assignee consenting to the change in inventorship. Petitioner states that the ownership is recorded at reel/frame 018328/0337. (This assignment was signed by originally named inventor Edwards).

However, the petition does not satisfy requirements (2) and (3) above. The petition does not include a statement from inventor Nelson that the inventorship error occurred without deceptive intent. The declaration submitted is re-executed by inventors Edwards and Berthelot, but not by inventor Nelson. Petitioner requests waiver of the requirements that inventor Nelson make the statement that the inventorship error occurred without deceptive intent and that all of the inventors sign the declaration on the basis that inventor Nelson has refused to sign either the statement or the declaration. In support thereof, petitioner provides a statement of the pertinent facts based on first-hand knowledge with supporting documentary evidence.

On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a request and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). As 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

As to requirement (3), in such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached. See MPEP 201.03. As discussed above, assignee consent is given to the requested correction. This consent is supplemented by evidence that the non-signing inventor Nelson has refused to join in the application. Accordingly, the waiver is granted.

All requirements of 37 CFR 1.48(a) thereby having been met, the request to correct inventorship is **GRANTED**.

Receipt of the processing fee under 1.17(i) and the petition fee under 37 CFR 1.183 is acknowledged.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Divya Vijayaraghavan	: DECISION ON REQUEST FOR
Patent Number	: 7627806	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **810** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Morrison & Foester, LLP
1650 Tysons Boulevard, Suite 300
McLean, VA 22102

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Selena Chan et al.	:	
Application No. 11/436,489	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. 070702010310	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Laura Chung and all attorneys/agents of record has been revoked by the assignee of the patent application on May 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Raj S. Davè
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/436,489	05/18/2006	Selena Chan	

CONFIRMATION NO. 7945

OC000000025138172

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 08/01/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Kimberly Gravinet

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/436,489	05/18/2006	Selena Chan	070702010310

CONFIRMATION NO. 7945

OC000000025138083

Raj.S. Dave
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean, VA 22102

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

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

Kimberly Gravinet

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

NEW ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/436,489	05/18/2006	Selena Chan	070702010310

CONFIRMATION NO. 7945

OC000000025138083

Raj.S. Dave
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean, VA 22102

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/15/2007.

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

Kimberly Bravnit

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

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

Morrison & Foester, LLP
1650 Tysons Boulevard, Suite 300
McLean, VA 22102

In re Application of	:	
Selena Chan et al.	:	
Application No. 11/436,507	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. 070702010311	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Laura Chung and all attorneys/agents of record has been revoked by the assignee of the patent application on May 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Raj S. Davè
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of
ZHAO, Gang
Application No. 11/436,528
Filed: May 19, 2006
Attorney Docket No. **060912-5025-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 October 04, 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, no longer represents the assignee, 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.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HAYDEN STON PLLC**
101 N. COLUMBUS STREET
SUITE 409
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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MUNCY, GEISSLER, OLDS & LOWE, PLLC
PO BOX 1364
FAIRFAX, VA 22038-1364

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Anton Ruettiger	:	
Application No. 11/436,532	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 1005/0108PUS1	:	FROM RECORD
	:	

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 3, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Muncy, Geissler, Olds & Lowe, PLLC has been revoked by the assignee of the patent application on September 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to 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: PREH GMBH
AN DER STADTHALLE
D-97616 BAD NEUSTADT/SAALE,
GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Yaron Menahem Peleg et al.	:	
Application No. 11/436,558	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. GNT-PU-006-US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed April 24, 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 25225 has been revoked by the assignee of the patent application on April 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Professional Patent Solutions
P.O. BOX 654
HERZELIYA PITUACH 46105 IL ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Peleg et al.	:	DECISION ON PETITION
Application No. 11/436,561	:	TO WITHDRAW
Filed: May 19, 2006	:	FROM RECORD
Attorney Docket No. GNT-PU-008-US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2009.

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

A review of the file record indicates that on July15, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Professional Patent Solutions
P.O. Box 654
Herzeliya Pituach 46105 IL Israel

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN DIEGO, CA 92130-2040

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Yaron Menahem Peleg et al.	:	
Application No. 11/436,562	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. GNT-PU-007-US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed April 24, 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 25225 has been revoked by the assignee of the patent application on April 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Professional Patent Solutions
P.O. BOX 654
HERZELIYA PITUACH 46105 IL ISRAEL

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OCT 22 2009

OFFICE OF PETITIONS

Morrison & Foerster, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Yaron Menahem	:	
Application No. 11/436,565	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 655112000400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 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 Morrison & Foerster, LLP has been revoked by the assignee of the patent application on July 9, 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: Professional Patent Solutions
P.O. Box 654
Herzeliya Pituach, 46105
ISRAEL

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SAN DIEGO, CA 92130-2040

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Yaron Menahem Peleg et al.	:	
Application No. 11/436,566	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. GNT-PU-009-US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed April 24, 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 25225 has been revoked by the assignee of the patent application on April 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Professional Patent Solutions
P.O. BOX 654
HERZELIYA PITUACH 46105 IL ISRAEL

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

Mail Date: 04/21/2010

Applicant	: Tom Kwan	: DECISION ON REQUEST FOR
Patent Number	: 7646253	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **334** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Chakrabarty et al.	:	
Application No. 11/436,590	:	ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 51282-00063	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on June 15, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

The application is being forwarded to the Technology Center Art Unit 1645 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Chakrabarty et al.	:	
Application No. 11/436,591	:	ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 51282-00059	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on June 15, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

The application is being forwarded to the Technology Center Art Unit 1642 for action on the merits commensurate with this decision.

David Bucel
Petitions Examiner
Office of Petitions

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DON J. PELTO
1300 I STREET, NW
11TH FLOOR
WASHINGTON DC 20006

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SEP 28 2007

OFFICE OF PETITIONS

Applicant: Chakrabarty et al
Appl. No.: 11/436,591
Filing Date: May 19, 2006
Title: COMPOSITIONS AND METHODS FOR TREATING HIV INFECTION WITH CUPREDOXIN AND CYTOCHROME C
Attorney Docket No.: 51282-00059
Pub. No.: US 2006/0251639 A1
Pub. Date: October 5, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 9, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Cytochrome" is misprinted as "Cytochrame" in the title of the invention.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein "Cytochrome" is misprinted as "Cytochrame" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221. The minor typographical error in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

[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).

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On June 9, 2006 and July 31, 2006, Filing Receipts were mailed by the Office, which improperly listed the title of the invention. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

COPY MAILED

NOV 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Chakrabarty et al.	:	
Application No. 11/436,592	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 51282-00065	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed June 15, 2006, to make the above-identified application special based on the invention contributing to the diagnosis, treatment or prevention of cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

In view of the importance of developing treatments and cures for HIV/AIDS and cancer and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to HIV/AIDS and cancer. Applicants who desire that an application relating to HIV/AIDS or cancer be made special should file a petition and the fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition meets the requirements of MPEP § 708.02, Section X.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or in his absence, to the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 1642 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Apr-09

MICHAEL S. THOMAS
254-03 86TH AVENUE
BELLEROSE NY 11426-2404

MAILED

APR 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Steven Thomas	:	LETTER DISMISSING
Application Number: 11/436681	:	PETITION
Filing Date: 05/18/2006	:	
Attorney Docket Number: DKT	:	
#721-C-US	:	

This is a communication in response to the paper, filed on February 24, 2009, styled as a petition under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is dismissed for the reasons stated below.

A proper petition should be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[2]

This application became abandoned on September 13, 2008, for failure to file a timely reply to the non-final Office action mailed on June 12, 2008, which set a three (3)-month shortened

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[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. 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(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2] 37 CFR 1.181(f).

statutory period for reply. Notice of Abandonment was mailed on January 23, 2009.

Petitioner asserts that the Office action mailed on April 12, 2008 was not received because it was not mailed to the proper address. Specifically, a change of correspondence address was mailed on January 11, 2008, but was not properly entered by the USPTO.

At the outset, the petition cannot be considered on the merits because it is not signed. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. In this regard, it is noted that although the statement of unavoidable delay has been signed by petitioner, *pro se*, the petition itself has not been signed.

A new, properly-signed petition should be submitted.

A copy of the form for a petition under 37 CFR 1.137(a) is enclosed for petitioner's reference.

Additionally, the petition must be dismissed because the proper amount of the petition fee has not been paid. The USPTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[3] It is noted that $250.00 was submitted with the petition paper. Effective October 2, 2008, the small entity fee due for a petition under 37 CFR 1.137(a) is $270.00. Any renewed petition must be accompanied by payment of the balance due of $20.00.

REQUIRED REPLY

The required reply to the outstanding Office action has not been included with the petition papers. Any renewed petition under 37 CFR 1.137(a) must include a reply to the outstanding Office action. 37 CFR 1.137(a)(1) states that 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

[3] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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.

A copy of the Office action mailed on June 12, 2008, is enclosed for petitioner's reference in preparing the required reply.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/61
Office action mailed on June 12, 2008

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.
11/436,681	05/18/2006	Michael Steven Thomas	DKT #721-C-US	8356

7590 06/12/2008
Albert Wai Kit Chan, Ph.D., Esq.
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EXAMINER
MICHENER, JOSHUA J

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
06/12/2008	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.

Office Action Summary	Application No.	Applicant(s)	
	11/436,681	THOMAS, MICHAEL STEVEN	
	Examiner	Art Unit	
	JOSHUA J. MICHENER	3644	

– 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 May 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* 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* 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 *18 May 2006* 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 *5/18/2006*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☒ Other: *mini-lecture*.

DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

(e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

(f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the

international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "activatable means", "propulsion means", "actuators" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 – 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For example, claim 1 recites, "...an activatable means...". The disclosure defines the activatable means as follows: "...As used herein, an activatable means of the Fire Suppression Delivery System fire extinguishment encasement shall be a means comprising a method, methodology, mechanism, procedure, mechanical provision or similar means that when activated, will cause the encasement or its component to perform in the manner designed for..."

The Examiner asserts one of ordinary skill does not know what sort of activatable means Applicant intends to claim AND one of ordinary skill would not be able to make or use such a feature in combination with the device.

Another example, claim 1 recites, "...micro or mini propulsion means for vertical lift and hovering, and for horizontal flight..." The disclosure appears to discuss a variety of propulsion

devices as follows: "...The ongoing development of unmanned aerial vehicles (UAVs) and micro-UAVs provides a continued growth of advancements that are applicable to development of the Hybrid Smart Fire Extinguishment Encasement: giving firefighters the ability to use the Hybrid Smart Fire Extinguishment Encasement, with or without activation of 5 its propulsion means. Where the propulsion means is activated it will extend the range, search and fire combat capabilities of the Smart Fire Extinguishment Encasement: for deeper projection within a structure or fire environment, and with greater fire combat power. As discussed at Fire Suppression Delivery System, Ser. No. 11\349,785, a problem exists with using a VTOL wing configuration for fire zone combat, even in the Hybrid Smart Fire Extinguishment Encasement. Unless shrouded from airborne projectiles common to a fire environment or the 15 projection of surface areas that could impact the turbine, the ducted rotor **design (USPN 6,976,653)** is limited as a propulsion method for the Hybrid Smart Fire Extinguishment Encasement. The use of or sole use of an air-breathing propulsion means raises a concern when applied to a fire environment, where smoke, particulate matter, reduced oxygen levels, etc, can compromise operations. The use of high impact filters may overcome part of the latter concern, while also increasing weight, costs and reducing fire extinguishment material containment space: though not addressing the matter of reduced oxygen levels. **USPN 6,918,244** discusses the use of VTOL propulsion systems that develop a forward flow of air through the air intake duct(s), by the methods of an internal duct system, reversing the rotation of the fan, or a variable pitch 30 (thrust reversing) fan," whereas **USPN 6,789,764** proposes the use of a dual-flight mode tandem wing, **USPN 6,981,844** utilizes "Cyclic actuation system for a controllable pitch propeller and a method of providing aircraft control therewith," the Hybrid Smart Fire

Extinguishment Encasement requires a compact propulsion means capable of sustained low-speed horizontal and vertical flight control, hovering, and without requiring large energy and fuel needs. However, it should be noted that while the propulsion of the Hybrid Smart Fire Extinguishment Encasement is not limited **to an internal combustion engine**, it does require a means that will generate lift, forward propulsion and hovering that may include the use of battery/electrical, thermal harnessing, compressed gas, fuel cell systems..."

It appears from this portion of the disclosure Applicant attempts to define a propulsion means as an internal combustion engine that has features from the above mentioned patents in combination. However, the combined propulsion engine is not shown in the drawings other than a box (908,918) AND this appeared to be combined engine is NOT described in the specification in such a way that would enable one of ordinary skill to make or use this feature.

Applicant further discusses propulsion means as follows: "...In an embodiment, Figure 2 illustrates a Hybrid Smart Fire Extinguishment Encasement (938) fitted with a mini- propulsion means (908), which can be housed within its own containment area (910) of the encasement, separate but contiguous to the fire extinguishment material containment area (911), whether powered by a miniature battery, compressed gas, propellant or other means. When the propulsion means is activated, its propulsion stream (912) can be released through the primary outlet (913) to support its horizontal trajectory, to which a portion can be shunted by diverters (914) through ducts (915) incorporated into the encasement to exit through actuator controlled ports (916). The diverted portion of the propulsion stream... As used herein, the propulsion stream shall be the pressurized flow of air, gas, fluid or fluid stream created by the propulsion means to propel the Hybrid Smart Fire Extinguishment Encasement.... As used herein, a fire extinguishment

containment means shall be a containment means comprising an interior device, means or similar mechanism, to contain, house, accommodate, contain, include, hold, surround, enclose a fire suppressant material within the fire extinguishment encasement, for the purpose of delivering and discharging same (to a fire situation).

The Examiner asserts one of ordinary skill would not be able to make the above combination as set forth by the aforementioned patents, then power it by a battery, compressed gas, propellant or other means. Furthermore, as disclosed the Examiner asserts one of ordinary skill would not be able to use such a device for vertical lift, hovering or horizontal flight, it is unknown how this function is achieved.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 8 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. For example, see claim 1, "drone-like", "and/or", "...above the deck." (sentence ending), etc.

It is noted, from the purely functionally nature of the "wherein and when" clauses it is completely unclear what invention Applicant intends to claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4, 6 and 7 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. SEE MPEP 2106.01

FUNCTIONAL DESCRIPTIVE MATERIAL: "DATA STRUCTURES "

REPRESENTING DESCRIPTIVE MATERIAL PER SE OR COMPUTER

PROGRAMS REPRESENTING COMPUTER LISTINGS PER SE

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit

the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.

Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material. When a computer program is claimed in a process where the computer is executing the computer program's instructions, USPTO personnel should treat the claim as a process claim. ** When a computer program is recited in conjunction with a physical

structure, such as a computer memory, USPTO personnel should treat the claim as a product claim. **

II. NONFUNCTIONAL DESCRIPTIVE MATERIAL

Nonfunctional descriptive material that does not constitute a statutory process, machine, manufacture, or composition of matter and should be rejected under 35 U.S.C. 101. Certain types of descriptive material, such as music, literature, art, photographs, and mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture, or composition of matter. USPTO personnel should be prudent in applying the foregoing guidance. Nonfunctional descriptive material may be claimed in combination with other functional descriptive multi-media material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. 101. The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping or sequence of musical notes read from memory and thereafter causes another defined series of notes to be played, requires a functional interrelationship among that data and the computing processes performed when utilizing that data. As such, a claim to that computer is statutory subject matter because it implements a statutory process.

Claim Rejections - 35 USC § 102

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.

(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.

Claims 1 – 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer (US 6,260,797).

Regarding claims 1 – 8, *AS BEST UNDERSTOOD,* Palmer discloses an activatable means (control system), a propulsion means (92), a propulsion power source (88), independently operablably mini canards (fig 4a), actuators (80,100) and micro electrical mechanical system devices (IMU, col 13, lines 50 - 55), a unitary, segmented or modular construction, impact release, a material that will inherently withstand some degree of heat (figures 4a, 4b), duct work (inflation tubes and fuel tubes), software programmed to the control system computer, shielding (the skin of the craft), sensors (col 18, lines 15 - 20), and a GPS system (col 13, line 51).

Claims 1 – 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Lipeles et al. (US 6,474,593).

Regarding claims 1 – 3, *AS BEST UNDERSTOOD,* Lipeles discloses an activatable means (44), a propulsion means (col 2, lines 55 – 64), a propulsion power source (col 2, lines 55 – 67, col 3, lines 40 – 55), independently operablably mini canards (18), actuators (20) and micro electrical mechanical system devices (col 4, lines 1 – 21), a unitary, segmented or modular construction, impact release, a material that will inherently withstand some degree of heat (figure 1).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See pto-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA J. MICHENER whose telephone number is (571)272-1467. The examiner can normally be reached on Monday through Friday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. J. M./
Examiner, Art Unit 3644

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

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DIW Jul-09

MICHAEL S. THOMAS
THOMAS TECHNOLOGIES RESEARCH AND DEVELOPMENT, INC.
254-03 86TH AVENUE
SUITE 2
BELLEROSE NY 11426-2404

MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Steven Thomas	:	DECISION ON PETITION
Application Number: 11/436681	:	
Filing Date: 05/18/2006	:	
Attorney Docket Number: DKT	:	
#721-C-US	:	

This is a decision on the petition filed on June 1, 2009, under 37 CFR 1.137(a), which, in view of petitioner's assertion that an Office action was not received, is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to file a timely reply to the non-final Office action mailed on June 12, 2008, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on January 23, 2009. The communication filed on February 24, 2009 was dismissed on April 1, 2009.

Petitioner asserts, in pertinent part, that the non-final Office action mailed on June 12, 2008 was not received because it was mailed to an incorrect address. Specifically, petitioner states that a change of correspondence address was filed on January 11, 2008, but that the non-final Office action mailed on June 18, 2008, was mailed to the previous address of record.

A review of the official file reveals that a revocation of power of attorney and change of correspondence address were filed on January 11, 2008, but that the power of attorney and change of correspondence address was not entered. Consequently, the non-final Office action mailed on June 12, 2008 (and the Notice of Abandonment) were mailed to the old correspondence address.

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on June 12, 2008, to the previous address rather than the current correspondence address.

The petitioner has made a sufficient showing of nonreceipt of the Notice of Allowance and Fee(s) Due. As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

As the present petition was not necessitated by an error on the part of petitioner, no fee is due. The fee paid with the present petition will be refunded to petitioner.

Receipt of the declaration and power of attorney filed on June 1, 2009 is acknowledged. In this regard, it is noted that applicant appears to be attempting to appoint himself as the attorney of record. No power of attorney is necessary for an applicant to prosecute the application *pro se*. Further, as applicant is not a registered patent practitioner, he cannot be appointed as attorney of record.[1] As such, a valid power of attorney has not been filed. Nevertheless, the change of correspondence address has been entered.

Receipt of the reply filed on June 1, 2009 is acknowledged.

As a reply to the outstanding Office action has been filed, it is not necessary to remail the Office action. Rather, the application will be referred to Technology Center Art Unit 3644 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] See 37 CFR 1.31 & 1.32.

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

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APR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Akira Umezawa	:	
Application No. 11/436,701	:	DECISION GRANTING PETITION
Filed: May 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 291451US2S	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/436,702	05/19/2006	Stephane Paquelet	291150US2	8802

7590 07/01/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
GHAYOUR, MOHAMMAD H

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
07/01/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/02/2008 0030057894

Credit Card Refund Total: $1060.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 07/02/2008 NFARMER
05/22/2006 NNGUYEN1 00000049 11436702
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP
05 FC:1203 -360.00 OP

FORM PET651G (Rev. 08/07)

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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Hobbs	:	
Application No. 11/436,707	:	DECISION ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 17958-00015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned September 13, 2008 for failure to reply in a timely manner to the non-final Office action, mailed June 12, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed January 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2872 for further processing.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

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ABBOTT CARDIOVASCULAR SYSTEMS INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Geoffrey H. Willis	: DECISION ON REQUEST FOR
Patent Number	: 7621895	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: 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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OFFICE OF PETITIONS

MUNCY, GEISSLER, OLDS & LOWE, PLLC
PO BOX 1364
FAIRFAX, VA 22038-1364

In re Application of	:	
Anton Ruettiger	:	
Application No. 11/436,711	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. BAW0039US	:	FROM RECORD
	:	

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 3, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Muncy, Geissler, Olds & Lowe, PLLC has been revoked by the assignee of the patent application on September 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to 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: PREH GMBH
AN DER STADTHALLE
D-97616 BAD NEUSTADT/SAALE,
GERMANY

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

Mail Date: 05/06/2010

Applicant	: Paul L. Rancuret	: DECISION ON REQUEST FOR
Patent Number	: 7612440	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/436,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **768** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Ashutosh Dutta	: DECISION ON REQUEST FOR
Patent Number	: 7664501	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **502** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Ashutosh Dutta	: DECISION ON REQUEST FOR
Patent Number	: 7664501	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,742	: OF WYETH
Filed	: 05/18/2006	:
		:

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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CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Mail Date: 04/20/2010

Applicant	: Richard Paschke	: DECISION ON REQUEST FOR
Patent Number	: 7614878	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **530** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Sergey V. Makarov	: DECISION ON REQUEST FOR
Patent Number	: 7632324	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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 PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FEB 08 2007

OFFICE OF PETITIONS

CLARK HILL, P.C.
500 WOODWARD AVENUE, SUITE 3500
DETROIT MI 48226

In re Application of :
Gerald J. McLean :
Application No. 11/436,825 : DECISION ON PETITION
Filed: May 17, 2006 :
Attorney Docket No. 20612-105024 :

This is a decision on the "Petition under 37 CFR §1.10(c)" filed June 29, 2006, requesting that the above-identified application be accorded a filing date of May 17, 2006, rather than the presently accorded filing date of May 18, 2006.

The petition is **GRANTED**.

Petitioner maintains that applicants properly deposited Express Mail Label No. EL962721943US and attached papers with the United States Postal Service (USPS), "Express Mail Post Office to Addressee", on May 17, 2006. However, the USPS incorrectly entered the "date-in" as May 18, 2006. Pursuant to 37 CFR 1.10(c), applicants petition the Commissioner to accord a filing date for the above-identified application as of the actual date of deposit with the USPS. In support thereof, petitioner submitted *inter alia* true copies of:

- USPS Pickup Service Statement For Express Mail.., showing a pickup date of "5/17/06"; and

- the USPS "Post Office to Addressee" "Express Mail" mailing label, EL962721943US.

Preliminarily, it is concluded that the petition was filed promptly within the meaning of §1.10(d)(1). The evidence of record further shows that the number of the "Express Mail" mailing label, EL962721943US, is on the correspondence of record presently accorded a filing date of May 18, 2006, and thus, was placed on the correspondence prior to the original mailing.

Finally, the USPS Service Statement shows that by signature of a USPS employee that the "Express Mail" package bearing mailing label No. EL962721943US was picked up at 1735 on May 17, 2006. Patent

attorney David J. Simonelli specifically attests to this statement having been signed and dated by the USPS representative. Accordingly, petitioner has made a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day.

Having considered the evidence, it is concluded that petitioner has shown that the "date-in" on the "Express Mail" mailing label was incorrectly entered by the USPS, and that the requested filing date, May 17, 2006, is the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup of the day. The proper date to be accorded this application is May 17, 2006, not May 18, 2006.

The application is being referred to the Office of Initial Patent Examination (OIPE) to correct the filing date to **May 17, 2006** and to issue a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at(571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

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APR 1 0 2008

OFFICE OF PETITIONS

Applicant: Arimoto et al.
Appl. No.: 11/436,838
Filing Date: May 18, 2006
Title: ZOOM OPTICAL SYSTEM AND IMAGE PICKUP APPARATUS
Attorney Docket No.: 031309-008
Pub. No.: US 2006/0268426-A1
Pub. Date: November 30, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 8, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains a material error, as the chemical formula on page 5, paragraph [0069] was misprinted in the publication.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,193,786 on March 20, 2007, the request is deemed moot.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GEORGE L. RIDEOUT, JR.
4400 ABBOTT GROVE DRIVE
CRESTWOOD, KY 40014

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Tekletsadik, Kasegn D. :
Application No. 11/436,869 :
Filed: May 18, 2006 :
Attorney Docket No. IGC-108 :

ON PETITION

This is a decision on the petition under 37 CFR 1.102(c), filed on May 18, 2006, to make the above-identified application special based on superconductivity technologies as set forth in M.P.E.P. § 708.02, Section IX.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IX: Special Status for Patent Applications Relating to Superconductivity, must be accompanied by a statement that the invention involves superconductive materials. Examples of such inventions would include those directed to superconductive materials themselves as well as to their manufacture and application. No fee is required.

The instant petition includes the statement, "The subject matter of this invention relates to superconductive materials, their manufacture or application." Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 2832 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

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

In re Application of

MCGREEVY, James et al.
Application No. 11/436,878
Filed: May 17, 2006
Attorney Docket No. **0274-7631US ((U-3951))**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 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 Allen C. Turner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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: **JAMES MCGREEVY**
6532 S. HEUGHES CANYON DRIVE
SALT LAKE CITY, UT 84121

cc: **HELLER ERHMAN**
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

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
11/436,878	05/17/2006	James McGreevy	0274-7631US ((U-3951))

CONFIRMATION NO. 7779

OC000000025741245

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 09/10/2007

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. Eason

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

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of	:	
MCGREEVY, James et al.	:	
Application No. 11/436,878	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. **092889-0200**	:	FROM RECORD
	:	

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 15, 2009.

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

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on August 05, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROTHWELL, FIGG, ERNST & MANBECK, P.C.**
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

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In re Application of Chein-Min Sung Application No. 11/436,881 Filed: May 17, 2006 Attorney Docket No. 00802-25979	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 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 January 16, 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 February 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $1620, 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 1793 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (4-07)
Approved for use through 09/30/07. 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) 00802-25979

First named inventor: Chien-Min Sung

Application No.: 11/436,881

Art Unit: 1793

Filed: 5/17/2006

Examiner: Michael A. Marcheschi

Title: Superabrasive Tools Having Improved Caustic Resistance

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 $ 1620 (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 an election/restriction response (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/David W. Osborne/	November 24, 2008
Signature	Date
David W. Osborne	44989
Typed or printed name	Registration Number, if applicable
P.O. Box 1219	(801) 566-6633
Address	Telephone Number
Sandy, UT 84091-1219	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☑ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

November 24, 2008	Nicole Solomon
Date	Signature
	Nicole Solomon
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
Woodbury, MN 55125

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OFFICE OF PETITIONS

In re Application of	:	
Etuso Oogami et al.	:	
Application No. 11/436,882	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. 1085-047US01	:	FROM RECORD
	:	

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** as moot.

A review of the file record indicates that the power of attorney to Young & Basile, P.C. has been revoked by the assignee of the patent application on May 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Young & Basile, P.C.**
3001West Big Beaver Road
Suite 624
Troy, MI 48084

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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Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
Woodbury, MN 55125

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Etuso Oogami et al.	:	
Application No. 11/436,882	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. 1085-047US01	:	FROM RECORD
	:	

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** as moot.

A review of the file record indicates that the power of attorney to Young & Basile, P.C. has been revoked by the assignee of the patent application on May 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Young & Basile, P.C.**
3001West Big Beaver Road
Suite 624
Troy, MI 48084

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD RD.
CARLSBAD, CA 92008

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OFFICE OF PETITIONS

In re Application of
Ronnie C. Hanecak et al.
Application No. 11/436,901
Filed: May 17, 2006
Attorney Docket No. ISIS-4976US.P3

: ON PETITION

This is a decision on the petition filed July 28, 2006, requesting that the above-identified application, be accorded a filing date of May 17, 2006. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED AS INAPPROPRIATE**.

After the application was filed and a filing date accorded, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts" on June 5, 2006, stating that while the application had been accorded a filing date, that Figure 6 as described in the specification, appeared to have been omitted. In response to the Notice, on July 28, 2006, petitioner filed, *inter alia*, an amendment to the drawings and a copy of Figure 6.

Petitioner requests that the application be accorded the original filing date of May 17, 2006 with Figure 6 as part of the original disclosure based on an incorporation by reference.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months

of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

In this case, since applicant neither admits nor denies that Figure 6 was present upon filing and in view of the amendment filed July 28, 2006 in response to the Notice, it appears that the applicant is constructively electing to have the application accepted as filed on May 17, 2006 without Figure 6.

In view of the above, the Office of Initial Patent Examination will continue processing the application with the originally accorded filing date of May 17, 2006 but without Figure 6 as part of the original disclosure. The amendment filed July 28, 2006 will be retained in the file for review by the Examiner in due course.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA GA 30309-3521

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JAN 12 2010

In re Application of	:	
Ronnie C. HANECAK et al.	:	
Application No. 11/436,901	:	DECISION ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. **ISIS-4976US.P3**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 25, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 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 election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction February 25, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1635 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

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
Alexandria, VA 22313-1450
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KEVIN E. MC VEIGH
RHODIA INC.
CN 7500
8 CEDAR BROOK DRIVE
CRANBURY NJ 08512

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OFFICE OF PETITIONS

In re Application of :
Frantz et al. :
Application No. 11/436,914 : DECISION ON PETITION
Filed: May 18, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. RD 05005 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed July 21, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application.

The petition is **DISMISSED.**

The petition is not accompanied by a supplemental application data sheet or an amendment to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Although petitioner is not required to file a petition under 37 CFR 1.78(a)(6) in order to add the priority claim, petitioner must file a proper amendment or supplemental ADS in order to add the claim. Petitioner seeks to rely on the examiner's amendment made in conjunction with the Notice of Allowance. However, petitioner is required to file an amendment or supplemental ADS with the Request for Continued Examination (RCE).

Before the petition can be granted, petitioner must submit a substitute amendment or supplemental ADS in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6).

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

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

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

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

Any questions concerning this decision on petition may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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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OCT 17 2006
OFFICE OF PETITIONS

Dority & Manning, P.A.
P O Box 1449
Greenville, SC 29601

In re Application of Thiesen, et al. Application No. 11/436,918 Filed: May 18, 2006 Atty. Dkt. No.: MIC-123 (P50-0185) For: SYSTEM AND METHOD FOR INTERROGATING A SAW VIA DIRECT PHYSICAL CONNECTION	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a) filed August 30, 2006.

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

Petitioner(s) 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 herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 18, 2006 without a fully executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed June 9, 2006. The Notice required a surcharge and an executed oath or declaration.

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

At to item (1), petitioner(s) has failed to establish that the non-signing inventors received a complete copy of the application papers (specification, including claims, drawings, and oath or

declaration) and thereafter refused to execute an oath or declaration.

Petitioner(s) indicates that attempt was made via email and facsimile to contact inventors Thomas Wolff and Monika Brogle, and that these communications were addressed solely to inventor Wolff. These communications allegedly asked the inventors to sign and return declarations and assignment documents. Petitioner(s) also alleges that the petition is accompanied by copies of correspondence to inventor Wolff addressed to both inventor Wolff and inventor Brogle.

The referenced documents do not appear to have been submitted. Moreover, petitioners are advised that while inventor Wolff may refuse to execute an oath or declaration on his own behalf, inventor Wolff cannot make such a refusal on behalf of inventor Brogle as there is nothing in the record to establish that inventor Wolff is inventor's Brogle legal representative.

Thus, 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 each non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that each 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. Petitioners may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after each 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.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented is unacceptable as it sets forth the same address and residence for each of the non-signing inventors. Thus, clarification and, if necessary, correction, is required. Petitioners are advised that such correction may be made

by way of a newly executed oath or declaration signed by the available inventor and/or an application datasheet.

As to item (4), petitioner(s) has failed to provide the last known address of each non-signing inventor. Any renewed petition must provide the last known address of each non-signing inventor.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. 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 §§ 409.03(e) and 605.03.

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. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney 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

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ALEXANDRIA, VA 22313-1450
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Dority & Manning, P.A.
P O Box 1449
Greenville, SC 29601

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OFFICE OF PETITIONS

In re Application of
Thiesen, et al.
Application No. 11/436,918
Filed: May 18, 2006
Atty. Dkt. No.: MIC-123 (P50-0185)
For: SYSTEM AND METHOD FOR INTERROGATING A SAW VIA DIRECT PHYSICAL CONNECTION

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed December 15, 2006.

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

Petitioners are 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 herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 18, 2006 without a fully executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed June 9, 2006. The Notice required a surcharge and an executed oath or declaration. A petition under 37 CFR 1.47(a) was filed August 30, 2006 and dismissed October 17, 2006.

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.

At to item (1), petitioners have failed to establish that the non-signing inventors received a complete copy of the application papers (specification, including claims, drawings, and oath or

declaration) and thereafter refused to execute an oath or declaration.

Petitioners indicate that attempt was made via email and facsimile to contact inventors Thomas Wolff and Monika Brogle. These communications were addressed solely to inventor Wolff on behalf of each non-signing inventor. These communications allegedly asked the inventors to sign and return declarations and assignment documents.

As previously indicated, copies of correspondence allegedly addressed to inventor Wolff does not appear to have been submitted.

Moreover, as previously indicated, while inventor Wolff may refuse to execute an oath or declaration on his own behalf, inventor Wolff cannot make such a refusal on behalf of inventor Brogle as there is nothing in the record to establish that inventor Wolff has been empowered to act as inventor's Brogle legal representative.

Thus, 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 each non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that each 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. Petitioners may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after each 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.

To reiterate, there is nothing in the record to establish that inventor Brogle received a complete copy of the application papers and thereafter refused to execute the declaration for the application. Further, copies of documentation which alleges to establish that inventor Wolff received a copy complete copy of the application papers and thereafter refused to execute the declaration for the instant application has not been submitted.

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. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **7-2-10**

TO SPE OF : ART UNIT **3728**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11436920** Patent No.: **7540100**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/MY/ **3728**
SPE **Art Unit**

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Alexandria, VA 22313-1450
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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
John, et al.	:	
Application No. 11/436,922	:	DECISION GRANTING PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 10227 NP	:	

This is a decision on the petition filed July 20, 2006, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of May 18, 2006, rather than the presently accorded filing date of May 19, 2006.

Petitioner alleges that the application was deposited with the Express Mail Service on May 18, 2006. In support of the allegation, the petition is accompanied by a copy of the Express Mail tracking sheet with a tracking number EV304411101US showing a "date-in" of May 18, 2006. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on May 18, 2006.

In view of the above, the petition is granted. The new filing date for the above-cited application is May 18, 2006.

The Office of Initial Patent Examination will further process the application with a filing date of May 18, 2006, and issue a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DUKE W. YEE
YEE AND ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

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JUN 2 2 2010

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Broderick et al.	:	
Application No. 11/436,952	:	
Filed: May 18, 2006	:	
Attorney Docket No. END920050178US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 24, 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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3623 for further examination on the merits

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

Mail Date: 07/21/2010

Applicant	: Dotsevi Y. Sogah	: DECISION ON REQUEST FOR
Patent Number	: 7649069	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/436,981	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **605** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Massimo Mattioli	: DECISION ON REQUEST FOR
Patent Number	: 7575419	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/436,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

MAILED

APR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:
Nezhat et al.	:
Application No. 11/437,035	: DECISION ON PETITION
Filed: May 18, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARAG0019	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 13, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the 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.

In regard to the statement of delay, the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR

§1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

Any inquiries concerning this decision may be directed to Christopher Bottorff at (571) 272-6692. 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 3767 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/437,035	05/18/2006	3767	565	ARAG0019	11	2

CONFIRMATION NO. 9372

CORRECTED FILING RECEIPT

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

OC000000035294370

Date Mailed: 04/02/2009

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)

Camran Nezhat, Palo Alto, CA;
Catherine Mohr, Mountain View, CA;

Power of Attorney: The patent practitioners associated with Customer Number 22862

Domestic Priority data as claimed by applicant

This application is a CIP of 10/238,113 09/10/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/437,035**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Vacuum actuated tissue lifting device

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/437,037	05/19/2006	Tak-soo Kim	0002900USU/3062	9379

7590 07/03/2008

Paul D. Greeley
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER
HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
07/03/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/09/2008 NFARMER 0000163514

CHECK Refund Total: $500.00

Adjustment date: 07/09/2008 NFARMER
05/23/2006 HMARZI1 00000054 11437037
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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DEC 0 4 2006

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of	:	
Barry Blankeship, Keith Fulton, Milton Li, and	:	DECISION GRANTING STATUS :
Quynh Dinh Pham	:	UNDER 37 CFR 1.47(A)
Application No.11/437,052	:	
Filed: May 19, 2006	:	
Attorney Docket No. 028705.000010	:	
Title of Invention: Computer Implemented	:	
Flexible Benefit Plan Host Based Stored Value	:	
Card Product	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed October 16, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Fulton 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. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Keith Fulton
10318 S. Knoxville Ave.
Tulsa, OK 74137

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of
Barry Blankeship, Keith Fulton, Milton Li, and
Quynh Dinh Pham
Application No.11/437,052
Filed: May 19, 2006
Attorney Docket No. 028705.000010
Title of Invention: Computer Implemented
Flexible Benefit Plan Host Based Stored Value
Card Product

: LETTER

Dear Mr. Fulton:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389
ATTN: Albert Kimball, Jr.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Tadashi Ehara	: DECISION ON REQUEST FOR
Patent Number	: 7603405	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,053	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/18/2010

Applicant : Tadashi Ehara
Patent Number : 7603405
Issue Date : 10/13/2009
Application No : 11/437,053
Filed : 05/19/2006

: 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 **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

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OCT 12 2007

OFFICE OF PETITIONS

Applicant: Askill et al.
Appl. No.: 11/437,060
Filing Date: May 18, 2006
Title: THERAPY FOR TROPICAL DISEASES
Attorney Docket No.: 073085-1001
Pub. No.: US 2006/0210528 A1
Pub. Date: September 21, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 20, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication because the title is should read "Therapy for Topical Diseases" not Therapy for Tropical Diseases" and the benefit/priority claim should state application No. "10/295,777," not to application No. "10/259,777", which was included on the Supplemental Application Data Sheet (ADS) submitted with the preliminary amendment filed on August 11, 2006.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein "Topical" is misprinted as "Tropical" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221. The minor typographical error in the title does not affect the understanding of the

[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).

application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The mistake in the omitted benefit claim is not a material error under 37 CFR 1.221(b) because the change in the benefit claim submitted by applicant in the amendment to the specification and the "supplemental" ADS is improper.

The benefit claim provided by Applicant in the preliminary amendment received on August 14, 2006 is improper because it includes an "incorporation by reference" statement. An incorporation-by-reference statement added after the filing date of an application is not permitted 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 after the filing date of the application, the amendment would not be proper. When a benefit claim 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). Therefore, the Office will not grant a petition to accept a benefit claim that includes an incorporation-by-reference statement of a prior application, unless the incorporation-by-reference statement was submitted on filing of the application. See MPEP 201.06(c).

The ADS received on August 14, 2006 is improper because it is not titled "Supplemental Application Data Sheet" in accordance with 37 CFR 1.76(c)(2).

To make a benefit/priority claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. According to 37 CFR 1.55, the priority claim must identify the foreign application and filing date, within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. [3] Since a proper benefit claim to the earlier filed application was not made within the required time period, it was not properly published on the patent application publication. See MPEP 201.11.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1,410) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

---

[3] See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/437,060	05/18/2006	1615	1000	073085-1001	20	1

CONFIRMATION NO. 9622

38706
FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

CORRECTED FILING RECEIPT

OC000000026265721

Date Mailed: 10/12/2007

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

Applicant(s)

Ian N. Askill, Colorado Springs, CO;
M. Karen Newell Rogers, Colorado Springs, CO;
Colin S. Askill, Sketty Swansea, UNITED KINGDOM;

Assignment For Published Patent Application

Aspire Biotech, Inc.

Power of Attorney:

Lawrence Squires--24060
William Benz--25952
Gerald Swiss--30113
Lauren Stevens--36691
Stephen Todd--47139
Julie Heinrich--48070
Lorna Tanner--50782

Domestic Priority data as claimed by applicant

This application is a DIV of 10/259,777 09/30/2002 PAT 6,654,305
which claims benefit of 60/332,752 11/14/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/437,060

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Therapy for topical diseases

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.

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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 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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FOLEY & LARDNER LLP
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PALO ALTO CA 94304

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SEP 15 2008

In re Application of	:	
Askill et al.	:	
Application No. 11/437,060	:	DECISION DISMISSING PETITIONS
Filed: 05/18/2006	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 073085-1001	:	

This is a decision on the petition filed on November 7, 2007, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed Application Data Sheet (ADS).

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 supplemental Application Data Sheet (ADS) filed with the subject petition is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an

appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
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

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED

OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:
Askill et al.	:
Application No. 11/437060	: DECISION ON PETITIONS
Filed: 05/18/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 073085-1001	:

This is a decision on the "RENEWED PETITION FOR UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. §120," filed on October 9, 2008, which is treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS).

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1615 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/437,060	05/18/2006	1615	1000	073085-1001	20	1

CONFIRMATION NO. 9622

CORRECTED FILING RECEIPT

38706
FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC000000032718441

Date Mailed: 10/27/2008

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

Applicant(s)

Ian N. Askill, Colorado Springs, CO;
M. Karen Rogers, Colorado Springs, CO;
Colin S. Askill, Sketty Swansea, UNITED KINGDOM;

Assignment For Published Patent Application

Aspire Biotech, Inc.

Power of Attorney:

Lawrence Squires--24060
William Benz--25952
Gerald Swiss--30113
Lauren Stevens--36691
Stephen Todd--47139
Julie Heinrich--48070
Lorna Tanner--50782

Domestic Priority data as claimed by applicant

This application is a DIV of 10/295,777 11/14/2002 ABN
which claims benefit of 60/332,752 11/14/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/437,060**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Therapy for topical diseases

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

Mail Date: 06/21/2010

Applicant	: Viswanath Poosala	: DECISION ON REQUEST FOR
Patent Number	: 7636574	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/437,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 09/12/08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11437066 Patent No.: 7301004

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Paul Tsay 1654

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JUN 25 2007

OFFICE OF PETITIONS

FERNANDEZ & ASSOCIATES, LLP
PO Box D
MENLO PARK, CA 94025-6204

In re Application of	:	
THORN, et al.	:	
Application No. 11/437,067	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. **077847.0105**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2006.

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

A review of the file record indicates that the power of attorney to *FERNANDEZ & ASSOCIATES LLP* has been revoked by the assignee of the patent application on January 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BAKER BOTTS LLP**
2001 ROSS AVE, SUITE 600
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CONTROL RESOURCES LLC
151 WEST PASSAIC ST.
ROCHELLE PARK, NJ 07662

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Bruce L. O'PRAY, et al	:	
Application No. 11/437,078	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 22, 2008.

The request is **APPROVED**.

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

The request was signed by Christopher F. Regan on behalf of the attorneys of record associated with Customer No. 27975.

The attorneys of record associated with Customer No. 27975 have been withdrawn.

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

All future communications from the Office will continue to be directed to the address identified above 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: BRUCE L. O'PRAY
297 GARDNER ROAD
RIDGEWOOD, NJ 07450

cc: CHRISTOPHER F. REGAN
1401 S. ORANGE AVE., STE. 1401
ORLANDO, FL 32801

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

ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD.,
SUITE 300
LOS ANGELES, CA 90024

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
John YOUNG	:	
Application No. 11/437,079	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 0320-1002	:	FROM RECORD
	:	

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 12, 2009.

The request is **APPROVED**.

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

The request was signed by Spyros J. Lazaris on.behalf of the attorneys of record associated with Customer Number 73276.

The attorneys of record associated with Customer Number 73276 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN YOUNG
P.O. BOX 577
SUN VALLEY, CA 91353

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William M. Selenke
5 Drummond St.
Cincinnati OH 45218

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
David A. Fossier et al.	:	
Application No. 11/437,093	:	DECISION ON PETITION
Filed: June 7, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition filed in the above-identified application. The petition listed an incorrect Application Number 11/4<u>7</u>3,093. The petition has been applied to 11/4<u>3</u>7,093, which the proper Application Number associated with the inventor and title of invention.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR I.27.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received. A blank PTO/SB/64 (Petition for Revival 1.137(b)) form is enclosed.

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.

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
40l 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-

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Attachment: Blank PTO/SB/64 form

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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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SFW

In the United States Patent and Trademark Office

In *re* Application of:	)	
Fossier et al.	)	
	)	
Serial No 11/473,093	)	Group Art Unit 2875
	)	
For: Forklift Activated Mirror Alert	)	
	)	
Filed: 19 May, 2006	)	Examiner: William J. Carter
	)	
	)	Docket 104-05

August 06, 2008

Commissioner of Patents
The United States Patent Office
Washington D. C.

To the board of petitions and appeals. Concerning the above named application.

The petition is to revive the above mentioned application. Agent Selenke submitted by mail the attached office action on 19 March. I likewise sent to my client Mr. Fossier a copy of the attached office action which is printed directly from my file on my computer and is an exact copy of the office action in my files. Examiner William J Carter did not receive the mailed office action.

I pray that the petition be granted. The above mention invention is a strong seller and the client wishes to be granted a letters patent.

Respectively submitted,

William M. Selenke

William M. Selenke 46,102

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AUG 0 8 2008
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PATENT & TRADEMARK OFFICE

In the United States Patent and Trademark Office

In *re* Application of:	)	
Fossier et al.	)	
	)	
Serial No 11/473,093	)	Group Art Unit 2875
	)	
For: Forklift Activated Mirror Alert	)	
	)	
Filed: 19 May, 2006	)	Examiner: William J. Carter
	)	
	)	Docket 104-05

March 16, 2008

Commissioner of Patents
The United States Patent Office
Washington D. C.

Dear Sir:

Concerning the above application. The proper form for the disclosure document is enclosed. Claims were amended following the suggestion of the examiner. The examiner is thanked for his comments.

However, upon review claims1) and 9) are somewhat ambiguous. The amended claim 1) and 9) and new claims 18) and 19) address this potential ambiguity.

To provide antecedent bases for these revised and new claims please insert at Page 7 line 2 between "as 44." and "Such a full dome.... The sentence: "Perspective of side view 42 shows that the mirror has in inner surface 75 and an outer surface 73." This is not new matter.

Replacement Sheet Figure 3 is enclosed reflecting the illustration of the inner and outer surface.

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Claims

We claim:

1) (amended) A warning or information mirror system comprising:

a curved semi transparent see through ~~(see thru)~~ mirror;

said curved semitransparent mirror has a inner surface and an outer surface:

a warning or information light is placed behind said mirror;

a detection means to create a signal;

said detection means may be activated when said signal means such as a photocell beam or other means of motion detection is activated by an object or person;

a signal transfer means;

a means to activate said warning or information mirror system

said detection means transfers information through signal transfer means which activates ~~said~~ a warning or information light;

illumination from said warning light passes through said curved mirror to warn or provide information to ~~the~~ a client;

wherein ~~said~~ a timing device deactivates said warning light after a preset time interval;

or the device is deactivated by the deactivation means after the stimulus for the activation means exits the area.

2) (original) A mirror warning or information system as in claim 1) wherein said signal transfer means is either wireless or with wires.

3) (original) A mirror warning or information system as in claim 1) wherein an auditory

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alarm is activated by said signal transfer means.

4) (Amended) A mirror warning or information system as in claim 1) wherein said curved mirror is a bowed flat mirror, a convex mirror, half dome, full dome or any other ~~shape~~ shaped semi-transparent see through ~~(see-thru)~~ mirror.

5) (amended) A mirror warning or information system as in claim 1) wherein said warning light is a laser which will project an image of text or graphics ~~(text or graphics)~~ on ~~the~~ said inner surface of ~~the~~ said mirror so that it is visible only when activated.

6) (amended) A mirror warning or information system as in claim 1) wherein said warning light is placed behind said inner surface ~~in the context~~ of said curved mirror so that said mirror is a light box with graphics overlay so a full color image will be visible behind the mirror when said warning light is activated.

7) (amended) A mirror warning or information system as in claim 1) wherein said warning light placed in the context of said curved mirror is a programmable scrolling message board so that a message, such as "Forklift Approaching" is visible when said warning light is activated.

8) (amended) A mirror warning or information system as in claim 1) wherein said system has failsafe circuitry that will flash a green LED or other type of visual display ~~(or other type of visual display)~~ to indicate that the ~~Mirror Alert System~~ mirror warning or

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information system is functioning.

9) (amended) A forklift activated mirror warning system comprising:

a means to detect ~~the~~ an approaching forklift;

said means to processes information from said forklift;

a signal transfer means;

a curved mirror;

a warning light;

a timing device;

said warning light is placed behind said inner surface ~~in the context~~ of said curved mirror;

said detection means transfers information through signal transfer means which activates said warning light;

illumination from said warning light passes through said curved mirror to warn of approaching vehicle~~.~~ ;

wherein said timing device deactivates said warning light after a preset time interval.

10) (original) A forklift activated mirror warning system as in claim 9) wherein said signal transfer means is either wireless or with wires.

11) (original) A forklift activated mirror warning system as in claim 9) wherein an auditory alarm is activated by said signal transfer means.

12) (amended) A forklift activated mirror warning system as in claim 9) wherein said

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curved mirror

is a curved flat, flat, convex, half dome, full dome or any other shape semi transparent see through ~~(see-thru)~~ mirror.

13) (amended) A forklift activated mirror warning system as in claim 9) wherein said warning light ~~placed in the context of said curved mirror~~ is placed behind semi-transparent see through ~~(see-thru)~~ mirroring.

14) (amended) A forklift activated mirror warning system as in claim 9) wherein said warning light is placed in the back of said curved mirror is a laser which will project an image, ~~(text or graphics)~~ text, or graphics on the inner surface of the mirror so that it is visible only when activated.

15) (original) A forklift activated mirror warning system as in claim 9) wherein said warning light placed in the back of said curved mirror is a light box with graphics overlay so a full color image will be visible behind the mirror when activated.

16) (amended) A forklift activated mirror warning system as in claim 12) wherein said warning light placed behind ~~in the context of~~ said curved mirror is a programmable scrolling message board so that a message, such as "Forklift Approaching" is visible when activated.

17) (amended) A forklift activated mirror warning system as in claim 9) wherein said

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curved mirror is a full dome 360 degree ~~(360 degree)~~ mirror;

wherein said warning light comprises four ~~separates~~ separate lights in said full dome mirror so that pedestrian and forklift operators are warned in cross aisles as they approach a 4-way intersection.

18) (New) A mirror warning or information system as in claim 1) wherein when a workpiece barstool accepts a customer the weight of said customer activates said detection means.

19) (new) A mirror warning or information system as in claim 1) wherein when said system is placed at a point of purchase display and activated by a customer approaching said display.

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Concerning claim rejection 35 U.S.C. 103 (a) wherein claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerk et. Al (6,650,242) in view of Olney (6,099,154).

With respect to claims 1 and 4-7. Olney (6,099,154) we quote from column 1 lines 39-57.

"Some systems have been developed for providing lighted symbology through a mirror surface; however, some of these suffer from three major technical difficulties based on the half-silvering (or reduced silvering) technique used to allow the symbol light to pass through the mirror surface. First, since the mirror surface is half-silvered, or half-attenuating, in the area of the symbology, half the available light from the light emitting diodes (LEDs) behind the mirror is lost, producing a very weak signal that is not visible under all light conditions, such as direct sunlight striking the mirror surface. Second, and again due to the half-attenuating mirror coating, the symbol can be viewed when the LEDs are not operating, as the mirror surface is not longer fully reflective in this area. Third, the symbology cannot be changed once the mirror is produced.

Another known system uses LEDs behind an ordinary mirror, providing only about one percent transmission over the visible spectral region. The resulting signal is dim and not visible under bright sunlight conditions."

Note, the present invention uses a half-silvered curved see through mirror. These are common to the art and are widely used to "hide" a video surveillance camera in the public places. Likewise, half silvered mirrors are widely used in so called "one-way mirrors."

Half silvered mirrors are old well known art. Note the whole intent of Olney (6,099,154) is to **avoid** the use of semi-transparent mirrors. Olney (6,099,154) teaches away from the present invention. See column 2, Summery of Invention.

From Wikipedia: **Burglar** (or **intrusion**), **fire** and **safety alarms** are found in electronic form today. Sensors are connected to a control unit via either a low-voltage hardwire or narrowband RF signal, which is used to interact with a response device. The most

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common security sensors indicate the opening of a door or window or detect motion via passive infrared (PIR). **This is precisely the technology that is used in the present invention.** The receivers whether generic activation objects such as humans as in claim 1) or forklifts as in claim 9) are used to interact with a response device.

Let us consider Clerk et. al. ,242. Their claim 1) states "1. A movement detection and warning system comprising a transmitter for transmitting an infra-red signal in association with die occurrence of an event or an object, the signal being adapted fir triggering a detector, said **transmitter being mounted on a moveable vehicle,**" Agent Selenke made bold.

In the case of the present invention the activation object whether persons or forklifts are passive. They do not have a transmitter as in Clark et. al. ,242.

This is a different element. That is the transmitter on Clark ,242 is on the moving object (forklift). The transmitter of Fossier et al. is on a stationary point. This difference has a great practical difference. That is there are more forklifts than there are crossings in most warehouses. If each forklift needed to have a transmitter there would be increased installation and maintenance costs. Note, the present invention may require a reflector. Last paragraph p. 3. A reflector is much cheaper than a transmitter.

Inventor Fossier used elements of Clark. That is a warning system, with a cover, a detection means a signal a signal transfer means to activate a working system. These are old well know elements of alarm systems.

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As for claim 2 two, signal transfer means !04) is either wireless or with wires. This is old well established art that is commonly used in many products.

As for claim 3, Clerk teaches an auditory alarm(32) activated by the signal transfer means. Again, this is old well established art that is commonly used in many products.

As for claim 8, Clark teaches the system has a failsafe circuitry (Fig 2) that will provide another type of visual display (33) to indicate that a Mirror Alert System is functioning. Again, this is old well established art that is commonly used in many products.

As for claims 9-16,clark and Olney teach all of the claimed elements, as discussed above, as well as Clark teaches a means to detect an approaching forklift. (Figure 1.)

However, it is to be noted that the use of pallets and forklifts in warehouses is a decades old technology. The danger of blindly driving forklifts is an old well known hazard. Thus the problem was old and well known. Likewise, the use of curved or domed mirrors are well known and widely used in warehouses.

As examiner noted: "The signal transfer means is either wireless or with wires and may activate an auditory alarm. Optionally the warning light is a laser which will project an image (text or graphics) on the surface of the mirror which is visible only when activated. The image may be a light box with graphics overlay so a full color image will be visible

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behind the mirror when activated." The problem addressed in the present invention is old and well known. The solution uses readily available technicality to solve a problem which solution is accepted by leaders in the industry. As noted, Olney teaches away from Fossier, and therefore is not obvious.

Similar arguments can be made concerning Figure 5 and 6 as claimed in generic claims 1-7, and new claims new claims 18) and 19). Bars and bar advertisements as well as beverage storage/display cases are old well know art. The use of the elements of the present invention with a customer or bar patron instead of a forklift is not obvious.

The Supreme Court about 80 years ago notes that there are only some many elements that can be used for a new invention. Most inventions use elements, usually well-know elements, to create a product that is intended to function better that existing products.

An important specific example of the need for the present invention is as follows: Forklift drivers are trained and adapted to use half dome mirrors to monitor other forklifts. An import consideration is the curvature of the mirror. The greater the curvature the further away the image of the object in the curved mirror seems to be. This is noted in the rear view mirrors of many automobiles one passenger side. The point is that drivers used curved mirrors for safety. Pedestrians are not trained to use the curved mirrors and need active warning. This is noted by Clark and Regel. This problem has been noted and a solution created by the product of Door Man Manufacturing Company

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as noted in the disclosure document.

Neither Regel or Clark, who both provide solutions to the problem of worker safety in forklift environments provide addition to the widely used half domed mirrors to provide a warning system. to inform and warning for pedestrian safety. As mention above, Orney teaches away form the uses of half silvered mirrors.

Fossier et al. was the first to use "off the shelf" elements including half silvered mirrors to create a needed useful warning device. The device of the current invention has been purchased, used, praised, an reordered by a number of major industries using large warehouses. This list printed on an attached appendix.

It is unlikely that a conservative industry, that is the warehousing industry would incur new expenses for safety without that product being new and unobvious.

Concerning claim 17 is rejected under 35 USC 103(a) as being unpatentable over Clerk and Olney as applied to claim 9 above, and further in view of Regel et al. (5,572,202). Regel present an interesting situation. The illustrations are ambiguous. Regel et al. addresses the old well known problem of safety in warehouses that use forklifts. This is, of course, the problem solved by the present invention. Regel does not specify the location his traffic warning system. If it is placed in the aisles it is a traffic hazard. If, as it is more likely, it is to be hung from the roof of the warehouse the likely suspension means, I.e. the part labeled 12 is not a suspension device but a transmitter antenna. As

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described, the Regal warning system, as illustrated, would be impracticable. In any case neither Regel nor Clerk adapted there system to the most common widely used warning system in warehouses, that is half doomed mirrors.

The use of the safety devices are inculcated as part of the training of forklift drivers, and must be retained as much a practicable for safety required acceptance of routine common used devices that do not cause confusion.

Fossier and Chernick used off the shelf common elements to create a non-obvious practical safety the is accepted by important corporations in the manufacturing and warehousing industry.

Respectively submitted.

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of David A. Fossier et al. Application No. 11/437,093 Filed: June 7, 2006 Attorney Docket No.	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Ralph C. Francis
Francis Law Group
1942 Embarcasero
Oakland CA 94606

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Eleanor Schuler et al.	:	
Application No. 11/437,096	:	DECISION ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. SCM-02-009C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 8, 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 January 9, 2009.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Power of Attorney submitted on October 28, 2009, was not accepted. A Notice Regarding the Power of Attorney was mailed on November 4, 2009. Therefore, 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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3762 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Kermit D. Lopez
Ortiz & Lopez, PLLC
P.O. Box 4484
Albuquerque, NM 87196-4484

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/437,158	05/19/2006	Tak-soo Kim	0002512USU/3062	9167

7590 07/03/2008

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EXAMINER
HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
07/03/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/03/2008 NFARMER 0000163449

CHECK Refund Total: $1000.00

Adjustment date: 07/03/2008 NFARMER
05/23/2006 DTESSEM1 00000055 11437158
02 FC:1111 -500.00 OP
04 FC:1202 -100.00 OP
05 FC:1201 -400.00 OP

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/31/09

TO SPE OF : ART UNIT 3732 Rodriguez Cris (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/437199 Patent No.: 7431586

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Cris L Rodriguez — SPE
3732 — Art Unit

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of
Allan M. Maniha
Application No. 11/437,200
Filed: May 19, 2006
Attorney Docket No.: **Maniha-001**

ON PETITION

This is a decision on the petition filed December 28, 2007 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 June 27, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 28, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 3749 for appropriate action on the amendment filed December 28, 2007.

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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JUN 08 2009

OFFICE OF PETITIONS

In re Application of
Dan Dietz
Application No. 11/437,214
Filed: May 19, 2006
Attorney Docket No.304 AH

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed September 18, 2008. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 19, 2008. A Notice of Abandonment was mailed on April 15, 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, drawings and specification, (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Daniel N. Lundeen
P.O. Box 131144
Houston, Texas 77219-1144

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Technology Center 2100

POTOMAC PATENT GROUP, PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

In re Application of: Negar Moshiri et al.
Application No. 11/437,215
Filed: May 19, 2006
For: GLOBAL NAVIGATION OBJECTS IN USER INTERFACES

TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)
DECISION ON PETITION

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on August 24, 2006.

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.

With respect to requirement (c) above, the petition does not contain a complete search directed to claim 1. Claim 1 recites "media items on a television" classified in class 725 (e.g. see Subclasses 37-61).

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any requests for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pat Salce

Pat Salce
Workgroup 2170 Quality Assurance Specialist,
Tech. Center 2100
Computer Architecture, Software and Information Security
571-272-3610

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TECHNOLOGY CENTER 2100

POTOMAC PATENT GROUP, PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

In re Application of: Negar Moshiri.
Application No. 11/437,215
Filed: May 19, 2006
For: Global Navigation Objects in User Interface

TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)
DECISION ON PETITION

This is a decision on the renewed petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on May 18, 2007 of the original petition filed August 24, 2006 which was dismissed on March 16, 2007.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The dismissal decision stated that the original the petition fails to adequately meet the requirements (c) as set forth supra. Those deficiencies have been corrected.

Petition to Make Special is hereby **GRANTED** because all the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file if 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.

Tod Swann
Workgroup Quality Assurance Specialist,
Computer Architecture, Software and Information Security
571-272-3612

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In re Application of	:	
Moshiri et al.	:	
Application No. 11/437,215	:	ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 0320-076	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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IPLAW DEPARTMENT
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE, NY 12601

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APR 06 2009

OFFICE OF PETITIONS

In re Application of :
Dan F. Greiner :
Application No. 11/437,218 : ON PETITION
Filed: May 19, 2006 :
Attorney Docket No. POU920060109US1

This is a decision on the petition, filed April 3, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 12, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2185 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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BUSKOP LAW GROUP, P.C.
4511 DACOMA STREET
HOUSTON, TX 77092

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OFFICE OF PETITIONS

In re Application of :
Edward L. Davis et al :
Application No. 11/437,225 :
Filed: May 19, 2006 :
Attorney Docket No. 1444.06 :

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) and (ii), filed May 19, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P. §708.02, Section V, and (b) materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) 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 materiality 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 indicated the invention is directed to single unit fuel cell technology. However the instant petition fails to meet the materiality standard of 37 CFR (c)(2)(ii). Although the invention may be directed to single unit fuel cell technology, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the maintenance of basic life-sustaining natural elements. That the invention may be energy efficient does not in itself meet the materiality standard. As a result, no contribution to the restoration or maintenance of basic life-sustaining natural elements has been persuasively shown.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and

petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

Petitioner submits that the instant invention is directed to improvement in the conservation of energy resources by allowing the optional conversion to place catalyst strips. The instant petition fails to explain how the instant invention contributes in a significant, substantial or noticeable manner to conservation of energy. Recognition of means to place catalyst strips permitting the production of additional energy does not establish any development within the parameters of category (A). No increased efficiency has been demonstrated for the claimed invention. See article to NUVERA, "Alternative Energy That's Smart, Clean, Safe and Ready"(2007), for hydrogen fed, stacked fuel cells. Regarding consideration of the petition for category (B), petitioner has not established that knowledge of a user of stacking fuel sources, results in any decrease in energy use or consumption as a direct response to the said knowledge and as a result of efforts accruing from the claimed invention. The fact that an energy user would have the option to avoid oil-based fuel sources in not persuasive since this alone is too speculative as to establish any energy use reduction. Accordingly, it is unclear as to how the claimed invention would materially contribute to category (A) or (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 FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3729 for action in its regular turn.

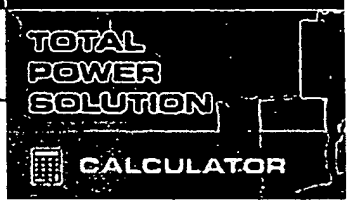
David Bucci
Petitions Examiner
Office of Petitions

Enclosure: NUVERA, "Alternative Energy That's Smart, Clean, Safe and Ready" Nuvera Fuel Cells, pages 1-5 (2007).

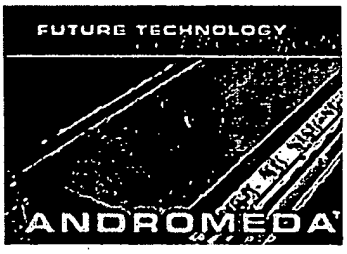
NUVERA
FUEL CELLS

SEARCH

FEATURED PRODUCT



Interested in using PowerFlow fu cell power for your fork lift truck fleet?
Find Out More



Click here to learn about the awa winning Andromeda automotive fu cell stack.

ALTERNATIVE ENERGY THAT'S SMART, CLEAN, SAFE AND READY

The quest for efficient energy affects every country on the planet. Worldwide there is an increasing interest in developing clean, reliable alternatives to petroleum fuels. Fuel cells are proof that there are smart, safe, and clean alternative power sources. Nuvera is proving that they are practical too.

Fuel cells are now a commercial reality.

Nuvera Fuel Cells is pleased to announce two new product offerings:

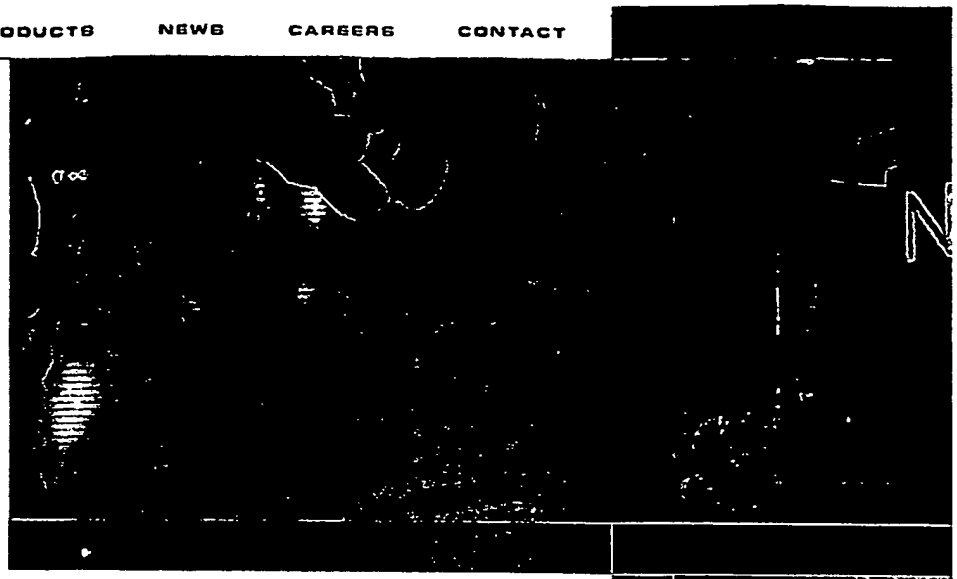
> The 5-kW PowerFlow™, the first model in a family of fuel cell power modules, is available today for purchase to customers with qualified applications.
>
> The 125-kW Forza™ Rail Power Module, a high-power fuel cell system, is available today for purchase to qualified customers. The technology can also be adapted for industrial and marine applications.

With the managed introduction of PowerFlow and Forza, we are entering a new phase in the technology life cycle - transitioning from pre-commercial systems to market-ready products. The PowerFlow and Forza systems now available are designed for commercial introduction and can be used by OEMs in real-world conditions - or by customers who wish to test Nuvera's latest fuel cell technology at their own facilities.

Over the coming several months, Nuvera will introduce three other commercial products: an expansion of the PowerFlow line, the PowerTap™ hydrogen generator, and an expansion of the Forza™ product family.

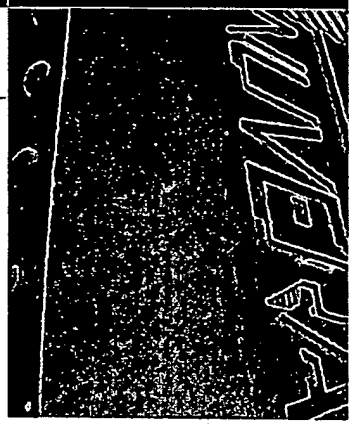
This is the future of energy. We invite you to experience its power today.

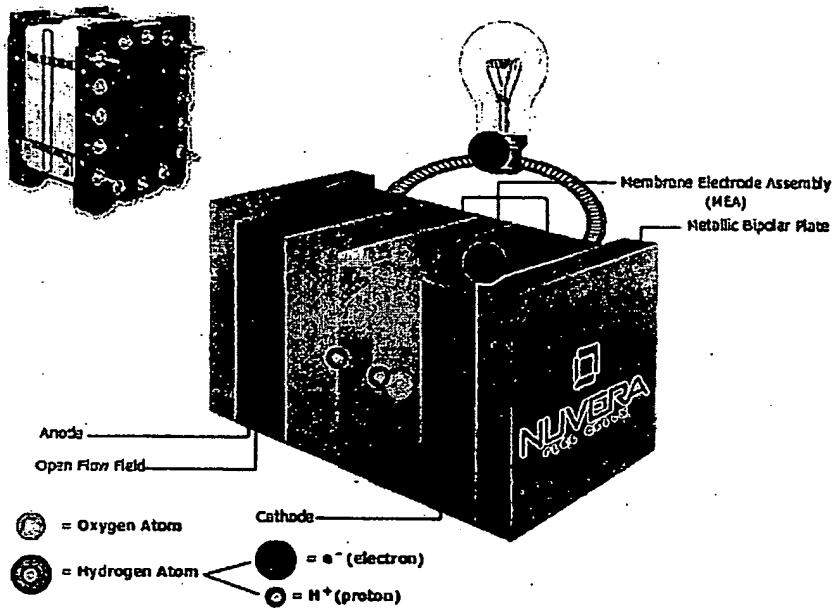
NUVERA
FUEL CELLS



SEARCH

FUEL CELL





A fuel cell is a static device for generating electric power. It combines hydrogen and oxygen in a chemical reaction that yields electricity, heat, and water. In practical terms, a fuel cell reverses the process of electrolysis in which an electric current breaks down water into its constituent oxygen and hydrogen gas. Think of a fuel cell as a limitless battery - it has a long operating life and will continue to produce power as long as fuel is supplied. However, unlike a battery, a fuel cell does not need recharging.

Proton Exchange Membrane (PEM) fuel cells (the type used by Nuvera) consist of two electrodes - an anode and a cathode - separated by a thin polymeric membrane enclosed in-between. To obtain a fuel cell stack, multiple fuel cells and bipolar plates are sequentially

assembled in series in a modular configuration.

A fuel, hydrogen, is fed to the anode (negative pole), and an oxidant (air or oxygen) to the cathode (positive pole). The catalyst on the anode breaks down hydrogen molecules into hydrogen ions (H+) and electrons; the hydrogen ions migrate through the membrane to the cathode, where the cathode catalyst causes the combination of the hydrogen ions, electrons, and oxygen to produce water. The electrons travel through an external circuit, resulting in the flow of electricity.

The electrodes may be formed by a thin layer of catalyst applied to an appropriate backing placed on the opposite surfaces of the thin polymeric membrane. Two bipolar plates are positioned against this backing, one on each side of the membrane. The bipolar plates have two functions: transmission of electric current through the elementary cells and release of heat to the external environment.

The side of the bipolar plates facing the membrane electrode assembly (MEA) may be provided with ribs that allow for the distribution of the gas (hydrogen and air) and the discharge of the resultant product water.

The Nuvera Difference™		
Nuvera's fuel cell stacks use metal bipolar plates and metallic open flow field architecture.	-->	Allows for durable, efficient operation, AND low-cost, high-volume manufacturing.
Nuvera's fuel cell stacks use cathode water injection (CWI) technology.	-->	Simplifies the balance of plant components needed to operate the stack.
Nuvera's fuel cell stacks are highly efficient, compact, lightweight, and durable.	-->	We have achieved net electrical efficiencies of 50 to 55 percent.
Stacks are easy to service and have long life.	-->	Stack sealing allows for bypass of damaged cells.
Tested and met military standards.	-->	Nuvera's fuel cell stacks can withstand severe vibration and shock.
Nuvera's fuel cell stacks are well-suited for stationary and automotive applications.	-->	Stacks are easy to service and offer great potential for low cost in high-volume manufacturing.

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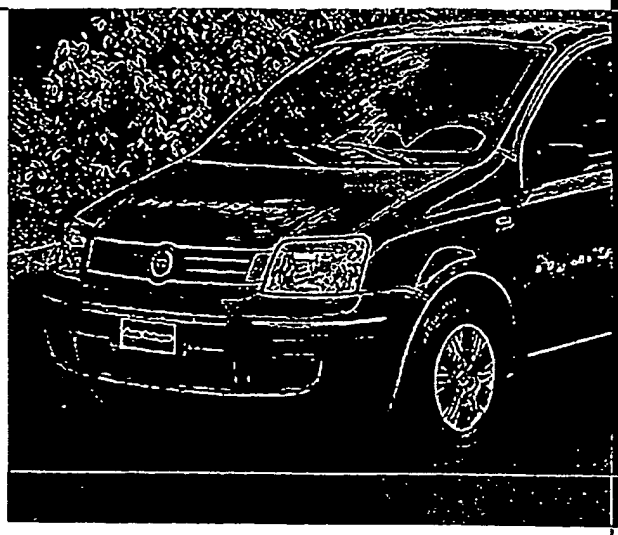
NUVERA FUEL CELLS



ANDROME

SEARCH

SPECIFICATIONS

ANDROMEDA™
HCS-575 PEM Fuel Cell Stack Series

Future Technology

Nuvera has developed an advanced fuel cell architecture called Andromeda™ in order to simplify today's complex fuel cell power systems. In contrast to standard fuel cell system architectures, the Andromeda design, which operates without humidification of the hydrogen *or* air stream, allows simplification of the balance of plant hardware, resulting in lower parasitic losses and fewer control parameters. A further benefit of non-humidified operation is the ability to provide fast start-up under freezing conditions. Today, the Andromeda technology is capable of starting from temperatures as low as -30°C, reaching 50% power in less than 30 seconds.

Market ::
Transportation
Contact ::
transportation@nuvera.com

ANDROMEDA™ Video
View video of the FIAT fuel cell vehicle test drive through the Italian Alps.
VIEW NOW

Keeping with our strong innovative heritage, Nuvera is the original and only metal stack manufacturer that is capable of using uncoated metal plates, which is a feature of our patented approach that will offer cost advantages during manufacturing.

In addition, a further focus of the new stack design involves the optimization of the aspect ratio and cell thickness, as well as a focus on increasing the durability and reliability in the stressful operating conditions imposed by transportation applications. Andromeda is designed specifically for the stringent performance, volume and weight requirements of the transportation market.

At the present time, Andromeda is available to customers with transportation fuel cell stack integration capabilities for prototype testing, product development, and fleet-testing initiatives. To see how the Andromeda architecture can simplify your fuel cell power system design, contact Nuvera today and experience The Future of Energy®.

Click here to see how Andromeda can be integrated into a vehicle.

Base Specifications
Stack Peak Power
Stack Continuous Power
Stack Operating Voltage
Transient Response
Stack Dimensions
Stack Weight
Stack Power Density
Coolant
Type
Conductivity
Flow Rate
Pressure Drop @ Rated Power
Max Pressure
T In Max
T Out Max
Fuel
Type

Click here to view video of the Andromeda-powered Fiat fuel cell vehicle test drive through the Italian Alps.

Andromeda Features and Benefits		
Low-pressure operation - The Nuvera stack has the ability to operate with very low pressure drop, resulting in a maximum pressure. requirement for the air system of 1.6 bar	-->	Allows the use of a lower-cost air blower rather than a more expensive compressor.
No external humidification - Nuvera has pioneered the use of a fuel cell stack technology that uses dry air and hydrogen as inputs.	-->	Reduces the heat exchange loops from three to one.
Metallic bipolar plates - Metallic stacks are best suited for transportation applications because of their resistance to shock and vibration.	-->	Significantly lower in manufacturing cost than graphite stacks.

To see how the Andromeda architecture can simplify your fuel cell power system design, contact Nuvera today and experience The Future of Energy®.

RH% In
H2 Pressure
H2 Pressure Drop @ Rated Power
Oxidant
Type
RH% In
Air Pressure
Air Pressure Drop @ Rated Power

* Nuvera to verify fluid compatibility w
** Requires use of hydrogen recirculat

All specifications are specified at begin
descriptions in this document were in
Cells, Inc., reserves the right to chang
product availability at any time.

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CV Therapeutics, Inc.
3172 Porter Drive
Palo Alto, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Elfatih Elzein et al.	:	
Application No. 11/437,242	:	DECISION ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 04-0212	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non final Office action mailed January 25, 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) was obtained. Accordingly, the application became abandoned on April 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment dated September 23, 2008, (2) the petition fee of $ 1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1623 for appropriate action by the Examiner in the normal course of business on the reply received

for David Bucci
Petitions Examiner
Office of Petitions

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GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 3100
CHICAGO, IL 60601-1732

Mail Date: 04/21/2010

Applicant	: Joseph Lee Haughawout	: DECISION ON REQUEST FOR
Patent Number	: 7653212	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY, NV 89706

In re Application of	:
Reep, Liang, and Jun-Jei	:
Application No. 11/437,265	: DECISION REFUSING STATUS
Filed: May 19, 2006	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 11/437,265	:
For: SYSYTEM AND METHOD FOR AUTHENTICATING MULTIPLE COMPONENTS ASSOCIATED WITH A PARTICULAR PRODUCT	

This is a decision on the petition under 37 CFR 1.47(a) filed November 8, 2006.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on May 19, 2006, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 8, 2006, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and a filing fee. The instant petition and exhibits were filed on November 8, 2006, along with a request for an extension of time within the third month.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (3) as set forth above.

As to item (3), the fee for the instant petition is $200.00, but did not accompany the petition. A review of the application file did not reveal an authorization to charge a deposit account for the petition fee. The petition must be dismissed, accordingly. The renewed petition must be accompanied by the petition fee of $200.00.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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CANCELLED

VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY, NV 89706

In re Application of
Reep, Liang, and Jun-Jei
Application No. 11/437,265
Filed: May 19, 2006
Attorney Docket No. 11/437,265
For: SYSYTEM AND METHOD FOR AUTHENTICATING MULTIPLE COMPONENTS ASSOCIATED WITH A PARTICULAR PRODUCT

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

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 8, 2007.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on May 19, 2006, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 8, 2006, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and a filing fee. A petition under 37 CFR 1.47(a) and exhibits were filed on November 8, 2006, along with a request for an extension of time within the third month. The petition was dismissed by a decision mailed January 18, 2007.

Petitioner has shown that inventor Reep 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

K. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 07/06/2010

Applicant	: Mark Reilly	: DECISION ON REQUEST FOR
Patent Number	: 7647709	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/437,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Application No. 11/437,281 :
Filed: May 18, 2006 :
Attorney Docket No. 2222.4300001 :
For: IDENTIFIER MANAGEMENT IN MESSAGE TRANSMISSION SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2007, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed July 19, 2006, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 20, 2006.

Applicants have submitted a proper reply to the July 19, 2006 Notice in the form of the basic filing fee, search fee, examination fee, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the July 19, 2006 Notice, and the petition fee.

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

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

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

MAILED

MAY 06 2010

OFFICE OF PETITIONS

In re Patent No. 7601335	: DECISION ON REQUEST
McCutcheon et al.	: FOR
Issue Date: 10/13/2009	: RECONSIDERATION OF
Application No. 11/437296	: PATENT TERM ADJUSTMENT
Filed: 05/19/2006	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
P2233R1	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 10, 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 fifty-four (454) 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 fifty-four (454) 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 fifty-four (454)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,335 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : McCutcheon 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 307 days.

Delete the phrase "by 307 days" and insert – by 454 days--

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Alexandria, VA 22313-1450
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ROHM AND HAAS ELECTRONIC MATERIALS
CMP HOLDINGS, INC.
451 BELLEVUE ROAD
NEWARK DE 19713

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JUL 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Jinru Bian	:	
Application No. 11/437299	:	DECISION ON
Filing or 371(c) Date: 05/19/2006	:	PETITION
Attorney Docket Number: 010049D1	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed March 16, 2010.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2009. Accordingly, the date of abandonment of this application is March 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

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

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

Mail Date: 04/21/2010

Applicant	: David E. Booth	: DECISION ON REQUEST FOR
Patent Number	: 7601163	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,300	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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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KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

Mail Date: 04/20/2010

Applicant	: Carl V. Cardi	: DECISION ON REQUEST FOR
Patent Number	: 7635812	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 COLLINS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
400 COLLINS ROAD NE
M/S 124-323
CEDAR RAPIDS IA 52498

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NOV 10 2008

In re Application of Seah Application No. 11/437,305 Filed: May 19, 2006 Attorney Docket No. 06CR080/KE For: VEHICLE LOCATION DETERMINATION SYSTEM USING AN RFID SYSTEM	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed October 7, 2008, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to timely respond in a timely manner to the non-final Office action, mailed January 18, 2008, which set a three (3) month period for reply. A Notice of Abandonment was mailed on September 8, 2008.

Petitioner asserts that a proper response was in fact timely received in the Office on April 11, 2008. In support, petitioner submitted a copy of the allegedly filed amendment with a proper certificate of facsimile transmission affixed thereto.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment bears a proper certificate of mailing, dated April 11, 2008, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, petitioner has submitted an auto-reply facsimile transmission from the Office, showing that the Office received a 8 page document from Sheila K. Mathews on April 11, 2008.

It is apparent the April 11, 2008 facsimile transmission was received in the Office and later misplaced.

Therefore, the response to the January 18, 2008 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the September 8, 2008 Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 2612 for consideration of the amendment filed on certificate of mailing date April 11, 2008 and resubmitted on October 7, 2008.

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Adrien R. Lavoie	: DECISION ON REQUEST FOR
Patent Number	: 7605073	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Winston & Strawn, LLP
Patent Department
1700 K Street, NW
Washington, DC 20006

In re Application of	:	
P. Alexander Derchak	:	
Application No. 11/437,335	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 85167-24500	:	FROM RECORD
	:	

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 11, 2009.

The request is **NOT APPROVED.**

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 does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Howard Baker – VivoMetrics, Inc.
c/o Ralph C. Francis
Francis Law Group
1942 Embarcadero Street
Oakland, CA 94606

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

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MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Jaffe et al.	:	DECISION ON PETITION
Application No. 11/437,344	:	TO WITHDRAW
Filed: May 19, 2006	:	FROM RECORD
Attorney Docket No. 085804-708000	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2010.

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

A review of the file record indicates that on April 26, 2010 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

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THEODORE J. BIELEN JR.
BIELEN, LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD, CA 94520

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JUL 01 2010

OFFICE OF PETITIONS

In re Application of
Robert J. Webber, et al.
Application No. 11/437,367
Filed: May 19, 2006
Attorney Docket No.: 15057

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 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 August 27, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 28, 2008. A Notice of Abandonment was subsequently mailed on March 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of
Kevin W. Lang
Application No. 11/437,371
Filed: May 19, 2006
Attorney Docket No. 4517-4006

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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morgan & Finnegan, LLP 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KING & SPALDING, LLP
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
11/437,371	05/19/2006	Kevin W. Lang	4517-4006

CONFIRMATION NO. 1358

OC000000022852450

OC000000022852450

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 03/12/2007

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).

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/437,371	05/19/2006	Kevin W. Lang	13697-105029

CONFIRMATION NO. 1358

OC000000022852451

OC000000022852451

65989
KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-4003

Date Mailed: 03/12/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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11/437,371	05/19/2006	Kevin W. Lang	4517-4006

CONFIRMATION NO. 1358

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OC000000022852450

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 03/12/2007

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).

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Law Office of Robert O. Bolan
P.O. Box 36
Bellevue, WA 98009

Mail Date: 04/21/2010

Applicant	: Micah Joel Dubinko	: DECISION ON REQUEST FOR
Patent Number	: 7581184	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/437,443	05/19/2006	Jaime Vargas	199	1607

7590 10/24/2007

Brian A. Schar
Director of Intellectual Property
Cardica, Inc.
900 Saginaw Drive
Redwood City, CA 94063

EXAMINER	
ART UNIT	PAPER NUMBER
3731	
MAIL DATE	DELIVERY MODE
10/24/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tammy J. Kaneh

Patent Publication Branch
Office of Data Management

Adjustment date: 10/24/2007 KKING1
05/24/2006 DTESSEM1 00000069 502108 11437443
02 FC:2111 250.00 CR

FORM PET651G (Rev. 08/07)

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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL
SUITE 300
NEWPORT BEACH, CA 92660

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger A. Gutierrez	:	
Application No. 11/437,476	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. Gutier.R-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 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 Gene Scott on behalf of all attorneys of record who are associated with customer No. 22197All attorneys/agents associated with the Customer Number 22197 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. 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: ROGER A. GUTIERREZ
22259 JOSIE AVENUE
LONG BEACH, CA 90815

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/437,476	05/19/2006	Roger A. Gutierrez	Gutier.R-01

CONFIRMATION NO. 1334

POWER OF ATTORNEY NOTICE

22197
PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

OC000000035469697

Date Mailed: 04/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY
STE 410
FARMINGTON HILLS MI 48334

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APR 14 2008

OFFICE OF PETITIONS

In re Application of
GEORGE J. FENNINGTON
Application No. 11/437,479
Filed: 05/18/2006
Attorney Docket No. 0133.00003

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2008, 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 September 28, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on December 29, 2007. A Notice of Abandonment was mailed on January 28, 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 publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Patrick Lopez	: DECISION ON REQUEST FOR
Patent Number	: 7672520	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,495	: OF WYETH
Filed	: 05/19/2006	:
		:

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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NOV 24 2009

OFFICE OF PETITIONS

Qualcomm Incorporated
5775 Morehouse Drive
San Diego, CA 92121

In re Application of	:	
Muhammad Ahmed	:	
Application No. 11/437,501	:	DECISION ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. 051319	:	

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 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 14, 2009. Accordingly, the date of abandonment of this application is April 15, 2009. A Notice of Abandonment was mailed on May 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The petition filed July 14, 2009 indicated that the issue and publication fees were enclosed herewith. The publication fee was paid but not the issue fee. As authorized on the New Application Transmittal sheet filed May 17, 2006, the issue fee in the amount of $1,510 will be charged to deposit account number 17-0026.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

OK to enter A.B.

In The Abstract

Amend the Abstract as follows:

An access tower has two mutually spaced side parts extending from a base part to the top part; and inclined cross parts each extending from one side part to the other. The cross parts are arranged one above another and inclined in opposite senses. The cross parts are rigid and are connected to the side parts. The lower one of two successive oppositely inclined cross parts has its upper end connected to an articulation node to which the lower end of the upper one of said two successive oppositely inclined cross parts is connected. A section of the side part opposite said articulation node, which section extends between the upper ~~and of~~ end of said upper cross part and the lower end of said lower cross part is collapsible so that said upper cross part together with the portion of the tower above it can be lowered into a position in which said upper cross part extends substantially parallel to said lower cross part. A releasable locking device is provided to prevent collapse of said collapsible section.

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DEC 17 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No.7,548,791	:	
David E. Johnston	:	DECISION DISMISSING
Application No. 11/437,516	:	REQUEST FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF
Filed: May 18, 2006	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 07844-716001 P662	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d), filed August 6, 2009. Patentees request that the determination of patent term adjustment be corrected from four hundred twenty-eight (428) days to four hundred fifty-eight (458) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 428 days.

BACKGROUND

This application was filed on May 18, 2006. On June 16, 2009, the application matured into U.S. Patent No. 7,548,791, with a revised patent term adjustment of 428 days. The Office determined that the 29 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), overlaps with the 429 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 429 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 1 day of applicant delay, the patent issued with a revised patent term adjustment of 428 days.

On August 6, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 457 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 458 days as these periods do not occur on the same day. Further, given the applicant delay of 1 day, patentee assert entitlement to 457 (429 + 29 - 1) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *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:

---

[1] 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.

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap"

under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), May 18, 2006, and ending on the date the patent issued, June 16, 2009,(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[2], 429 days[3] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[4], 29 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 29 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 429 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 429 days and the 29 days is neither permitted nor warranted.

---

[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A non-final Office action was mailed on September 19, 2008, 14 months and 429 days after the application was filed on May 18, 2006.

[4] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

Accordingly, at issuance, the Office properly entered 428 days (429 days for Office delay - 1 day for applicant delay) of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 428 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: David E. Johnston	: DECISION ON REQUEST FOR
Patent Number	: 7548791	: RECALCULATION of PATENT
Issue Date	: 06/16/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **457** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of :
Walter L. Moden :
Application No. 11/437,550 :
Filed: May 19, 2006 :
Attorney Docket No. 2269-2687.7US (94-0305.07

ON PETITION

This is a decision on the petition, filed October 3, 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 August 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

DATE 10/4/07 APPLICATION NUMBER 11/437,550

DOC CODE IMIS DOC DATE

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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Date : October 4, 2007

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 11/437,550

Applicant(s) : Walter L. Moden
Application No. : 11/437,550
Filed : May 19, 2006

The above-identified application has been assigned Patent No. 7,279,364 and an issue date of October 9, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of: October 9, 2007.

> "All reference to Patent No. 7,279,364 to Walter L. Moden of Idaho for FLIP-CHIP ADAPTOR PACKAGE FOR BARE DIE appearing in the Official Gazette of October 9, 2007 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091201

DATE : August 11, 2008

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7,381,591

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

Approved, but the changes are made by the applicant which are NOT due to errors in the office. The office printed the claims as submitted by the applicant on 8/20/07. The changes here are cosmetic ie to make the claims read better.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

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OCT 26 2009

OFFICE OF PETITIONS

LUNDEEN & LUNDEEN PLLC
2710 LOUISIANA
HOUSTON, TX 77006

In re Application of	:	
Dan DIETZ	:	
Application No. 11/437,559	:	DECISION ON PETITION
Filed: May 19, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **306 AH**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 3, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 3643 for consideration of the amendment filed May 2, 2009.

Inquiries regarding the status or examination of the application should be directed to the examiner.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Robert M. Schwartz, P.A.
P.O. Box 221470
Hollywood, FL 33022

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Lewis Churnick	:	
Application No. 11/437,562	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. CH 371.002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert M. Schwartz, sole attorney of record. Robert M. Schwartz has been withdrawn as attorney of record.

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 indicated below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mr. Lewis Churnick
21029 N.E. Highway 27
Williston, FL 32696

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GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

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OFFICE OF PETITIONS

In re Application of	:	
Hofbauer, Peter	:	
Application No. 11/437,588	:	ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. APT-2.267.US.DIV.1	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed May 18, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 1.102(c)(2)(ii). Although the invention may be directed to the development of energy resources, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the development of energy resources. That the invention may be an opposed piston opposed cylinder engine does not in itself meet the materiality standard. Accordingly, it is unclear as to how the claimed invention would contribute in a significant manner to the development or conservation of energy resources.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
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 Technology Center Art Unit 3747 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-18-09

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 11437588 Patent No.: 7383796

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

CERTIFICATE OF CORRECTIONS BRANCH (C of C)
RANDOLPH SQUARE
PALM LOCATION - 7580

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: _____

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

SPE

3747
Art Unit

PTOL-306 (REV. 7/03)

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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 08/02/2010

Applicant	: Jason Van Sciver	: DECISION ON REQUEST FOR
Patent Number	: 7648725	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/437,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Jason Van Sciver	: DECISION ON REQUEST FOR
Patent Number	: 7572336	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **324** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Jonathan Chauvin	: DECISION ON REQUEST FOR
Patent Number	: 7581535	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCDERMOTT WILL & EMERY LLP
600 12TH STTEET, N.W.
WASHINGTON DC 20005-3096

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JAN 0 8 2009

In re Patent No. 7,223,976	:	
Issue Date: May 29, 2007	:	
Application No. 11/437,638	:	ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No.058799-0167	:	

This is a decision on the petition filed November 13, 2008, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Hitachi High-Technologies Corporation, Tokyo (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Hitachi, Ltd, Inc. to Hitachi High-Technologies Corporation. Tokyo (JP) was recorded on February 7, 2008, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to the Undersigned at (571) 272- .

Karen Creasy
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of
Veronique Chevalier
Application No. 11/437,677
Filed: May 22, 2006
Attorney Docket No. 274592US0

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed February 12, 2010, to expunge information from Application No. **10/568,037**. This is also a decision on the request for refund.

The petition is **dismissed**.

The request for refund is **dismissed**.

Petitioner requests that an amendment and extension of time (EFS 6974331) be expunged from Application No. 10/568,037.

The petition is deficient because it is filed in the wrong application. Any petition to expunge papers from Application No. 10/568,037, need to be filed in that application. The instant petition does not request expungement of papers in the instant application and thus the petition cannot be granted.

Petitioner is directed to MPEP 724.05 (III) INFORMATION SUBMITTED IN INCORRECT APPLICATION.

Likewise, the request for refund is intended for fees paid in Application No. 10/568,037 and any request for refund of those fees needs to be filed in that application.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Ayse Findikli	: DECISION ON REQUEST FOR
Patent Number	: 7586896	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Ayse Findikli
Patent Number : 7586896
Issue Date : 09/08/2009
Application No : 11/437,680
Filed : 05/22/2006

: 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 **19** 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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

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JUN 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Hagop A. Nazarian, et al.	:	
Application No. 11/437,706	:	DECISION GRANTING PETITION
Filed: May 22, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M4065.1260/P1260	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2824 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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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

In re Application of	:	
BOYLAN	:	
Application No. 11/437,710	:	DECISION ON PETITION
Filed: 05/22/2006	:	
Attorney Docket No. 17998.20.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 non-final Office action, mailed September 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 December 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 3738 for appropriate action by the Examiner in the normal course of business on the reply received on Mau 6, 2009.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/437,710	05/22/2006	John F. Boylan	17998.20.1

CONFIRMATION NO. 1198

POA ACCEPTANCE LETTER

57360
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

OC000000039642058

Date Mailed: 01/13/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2009.

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.

/ctdonnell/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Satoshi Eto	: DECISION ON REQUEST FOR
Patent Number	: 7599244	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **42** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Sylvain Trudel, et al.	:	
Application No. 11/437,727	:	ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. 17593-1US AD	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 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 August 20, 2008. On March 13, 2009, the present petition was filed. 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). It is noted that this decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $405; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $555 extension fees included with this petition will be credited to counsel's deposit account.

This application is being referred to Technology Center AU 2612 for further processing of the RCE filed March 13, 2009 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Global Intellectual Strategies
120 Iber Road, Unit 101
Stittsville, Ontario K2S 1E9 CA CANADA

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MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Gerard A. Breton :
Application No. 11/437,781 : ON PETITION
Filed: May 22, 2006 :
Attorney Docket No. 030601-CDN

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the excess claim fee in a timely manner in reply to the Notice Requiring Excess Claims Fee, mailed March 29, 2007, which set a period for reply of one (1) month or thirty (30) days. Accordingly, by operation of law, the above-identified application became abandoned on April 30, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the excess claim fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the excess claim fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 3711 for consideration of the amendment filed March 13, 2007 in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Powell et al. :
Application No. 11/437,815 : DECISION ON PETITION
Filed: May 22, 2006 :
Attorney Docket No. 164034CON :

This is a decision on the petition, filed March 5, 2009, which is being treated as a petition under 37 CFR 1.137(b). Based upon the arguments presented this application will also be treated under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **DISMISSED.**

This above-identified application became abandoned for failure to file a response to the Notice to File Corrected Application Papers, which was mailed on June 12, 2006. The Notice set an extendable one (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 13, 2006.

Petitioner contends that the Notice was never received because the Office mailed the Notice to an incorrect address. Petitioner states that although a declaration from a continuing application was used in the present application, the correct correspondence address was provided on the second page of the application transmittal. Petitioner insists the address provided on the transmittal should have been used as a correspondence address of record.

Petitioner's argument has been considered but has not been found to be persuasive. A review of the record shows that the declaration stated that all correspondence should be directed to the firm Hughes & Luce. The Office warns in 37 CFR 1.63(d)(4) that where the power of attorney or correspondence address was changed during the prosecution of the prior application, the change in power of attorney or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney or correspondence address which occurred during the prosecution of the prior application. The record confirms that a change of correspondence address or power of attorney was not filed prior to the mailing of the Notice to File Corrected Application Papers.

Petitioner's contention that the correspondence address was provided on the application transmittal form is not well received. A review of the transmittal shows that while the address of Andrews Kurth LLP was included on the transmittal, the transmittal did not request that correspondence be directed to the address of Andrews Kurth LLP.

As such the Notice was mailed to the proper correspondence address.

Petition Under 37 CFR 1.137(b)

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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), the Notice to File Corrected Application Papers required replacement drawings, and an indication whether petitioner is opting for option I, II or III. Petitioner has failed to submit the required reply.

Pursuant to petitioner's request deposit account no.50-2849 will be charged the $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of
Powell et al.
Application No 11/437,815
Filed: May 22, 2006
Attorney Dkt. No. 164034CON
For: Data Formats and Usage For Massive Point to Point Route Calculation

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to the Notice to File Corrected Application Papers, which was mailed on June 12, 2006. The Notice set an extendable one (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 13, 2006. A Notice of Abandonment was mailed on February 21, 2007. Petitions under 37 CFR 1.181 and 1.137(b) were dismissed on March 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings and an amendment (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Jong-un Jeong	: DECISION ON REQUEST FOR
Patent Number	: 7637590	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/437,821	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **842** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NOV 10 2008

HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME CA 94011-4787

In re Application of

ROSENTHAL, Mike et al.
Application No. 11/437,849
Filed: May 18, 2006
Attorney Docket No. **018489-002543US**

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 14, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (04-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **POPOVICH, WILES & O'CONNELL, PA**
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

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Paper No.

Niro, Scavone, Haller & Niro
Suite 4600
181 W. Madison
Chicago IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Gregory Alaimo and	:	DECISION REFUSING STATUS
Richard Duffy	:	UNDER 37 CFR 1.47(a)
Application No. 11/437,857	:	
Filed: May 19, 2006	:	
Attorney Docket No. 3616	:	

This is a decision on the "PETITION TO PERMIT FILING A PATENT APPLICATION ON BEHALF OF DECEASED INVENTOR RICHARD J. DUFFY 37 C.F.R. §1.47(a)," filed November 13, 2006.

The petition is **DISMISSED**.

Rule 47 applicants are given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath(s) or declaration(s) executed by the non-signing inventor(s). 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 May 19, 2006, without an executed oath or declaration. Accordingly, on June 13, 2006, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and the surcharge for late filing under § 1.16(e). In addition, the Notice required applicants to

submit additional fees. This Notice set a two-month period for response.

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee and the late surcharge. This response was made timely by an accompanying petition (and fee) for extension for response within the third month. (Receipt of the additional fees also filed November 13, 2006 is acknowledged).

The petition includes a statement that co-inventor Duffy is deceased. The petition includes a declaration purportedly executed by joint inventor Alaimo on behalf of himself and on behalf of the non-signing legal representative of the inventor, his widow, Friday Duffy. Rule 47 applicants assert that status under § 1.47(a) is proper because non-signing legal representative Duffy refuses to join in the application.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1), (2) and (4).

The oath or declaration required by 35 U.S.C. 115 must be signed by all of the actual inventors, except under limited circumstances. 35 U.S.C. 117 provides that the legal representative of a deceased or incapacitated inventor can sign on behalf of the inventor. If a legal representative executes an oath or declaration on behalf of a deceased inventor, the legal representative must state that the person is a legal representative and provide the citizenship, residence, and mailing address of the legal representative. See 37 CFR 1.64, MPEP § 409.01 and § 409.02.

As to requirement (1) above, in this instant the proof required is of whether the legal representative of deceased inventor Duffy cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings).

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 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. 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.

Before a refusal can be alleged, applicants must demonstrate 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. A refusal by an inventor to sign an oath or declaration when the inventor, or in this instance, the legal representative has not been presented with the application papers does not itself suggest that the legal representative is refusing to join the application unless it is clear that the legal representative understands exactly what he or she is being asked to sign and refuses to accept the application papers. See MPEP 409.03(d).

The petition does not include adequate proof that legal representative Duffy (or her representative) was presented with all of the application papers or that either refused to accept the papers. Nor are the exact facts of her refusal detailed by a person with firsthand knowledge. Thus, refusal cannot be inferred based on her failure to respond and express refusal has not been established.

As to requirement (2), the declaration is unacceptable. 37 CFR 1.64 provides that:

> (a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.
>
> (b) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts, which the inventor is required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration as shown to have been presented to signing inventor Alaimo does not identify inventor Duffy as a joint inventor. The petition includes a copy of the declaration for patent as transmitted by Hannah Martin to inventor Alaimo and legal representative Patricia Duffy on August 4, 2006. As this document is shown to have been presented, it does not identify inventor Richard Duffy as the second-named inventor. (Likewise, Hannah Martin's second mailing to legal representative Friday Duffy on September 20, 2006, does not identify Duffy as the second-named inventor). Yet, on the declaration for patent executed by inventor Alaimo on August 22, 2006, inventor Duffy is identified as the second-named inventor. Accordingly, clarification is required. The Office cannot accept a declaration, which is altered after signature.

Consistent with this ambiguity, petitioner has submitted 2 different declarations for patent executed by inventor Alaimo. Both were signed August 22, 2006. One identifies inventor Duffy, but does not appear to have the added page for the signature of Friday Duffy. The other includes the added page, but does not identify inventor Duffy as the second-named joint inventor.

On renewed petition, petitioner must submit 1) adequate proof of legal representative Duffy's refusal to join in the application, and 2) a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of the non-signing legal representative of the deceased

inventor, including the information required for inventor Richard Duffy.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

DATE: 8/29/07 APPLICATION NUMBER: 11/437,857

DOC CODE: Pet Dec. TC DOC DATE: COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

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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Paper No.

Niro, Scavone, Haller & Niro
Suite 4600
181 W. Madison
Chicago IL 60602

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Gregory Alaimo and	:	DECISION ACCORDING STATUS
Richard Duffy	:	UNDER 37 CFR 1.47(a)
Application No. 11/437,857	:	
Filed: May 19, 2006	:	
Attorney Docket No. 3616	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(a)" filed July 23, 2007.

The petition is **GRANTED**.

The above-identified application was filed on May 19, 2006, without an executed oath or declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed on June 13, 2006, applicant filed the PETITION TO PERMIT FILING A PATENT APPLICATION ON BEHALF OF DECEASED INVENTOR RICHARD J. DUFFY 37 C.F.R. §1.47(a)," on November 13, 2006. However, by decision mailed April 6, 2007, the petition was dismissed for failure (1) to submit adequate proof that legal representative Friday Duffy had refused to join in the application after having been presented with all of the application papers, and (2) to submit an acceptable oath or declaration.

Applicant filed the instant renewed petition, made timely by a petition and extension of time for response within the first month. The petition includes a declaration of Sharon Easton, setting forth based on firsthand knowledge the facts relied on to conclude that legal representative Duffy has refused to join

in the application after having been presented with the application papers. In addition, the petition includes a new declaration executed by inventor Gregory Alaimo on behalf of himself and on behalf of legal representative Friday Duffy, and identifying Richard Duffy as a joint inventor.

The declaration filed July 23, 2007, has been reviewed and found in compliance with § 1.63. By declaration of facts of Sharon Easton, petitioner has now shown that legal representative Duffy has refused to join in the application. The petition fee of $200 was previously paid and the last known address of inventor Duffy was previously stated.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MRS. FRIDAY DUFFY
4001 Sandy Creek
Shelby Township, MI 48316-3969

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Gregory Alaimo and :
Richard Duffy :
Application No. 11/437,857 :
Filed: May 19, 2006 :
Attorney Docket No. 3616 :

Dear Mrs. Duffy:

You are the legal representative of the named joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 117 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application Richard Duffy will be designated therein as a joint inventor.

As legal representative of a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with Richard Duffy as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be

directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Niro, Scavone, Haller & Niro
Suite 4600
181 W. Madison
Chicago IL 60602

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald S. Higgins	:	
Application No. 11/437,875	:	DECISION GRANTING
Filing or 371(c) Date: 05/22/2006	:	PETITION UNDER
Attorney Docket Number: 016329-0310492	:	37 CFR 1.47(b)
Title of Invention: METHOD AND SYSTEM	:	
FOR TRANSLATING ASSEMBLER	:	
CODE TO A TARGET LANGUAGE	:	

This is in response to the Petition Under 37 CFR 1.47(b) for Filing of Application When Inventor Refuses to Sign Declaration", filed September 11, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The 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.

Petitioner has shown that the non-signing inventor, Donald S. Higgins, refuse to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MR. DONALD S. HIGGINS.
C/O FRANK GODDARD, ESQ.
BACON, BACON, GODDARD & RAMSBERGER, P.A.
4320 CENTRAL AVENUE
ST.PETERSBURG, FL 33711

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald S. Higgins	:	
Application No. 11/437,875	:	LETTER
Filing or 371(c) Date: 05/22/2006	:	
Attorney Docket Number: 016329-0310492	:	
Title of Invention: METHOD AND SYSTEM	:	
FOR TRANSLATING ASSEMBLER	:	
CODE TO A TARGET LANGUAGE	:	

Dear Mr. Higgins:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of

Hans-Michael Weller

Application No. 11/437,895

Filed: May 19, 2006

Attorney Docket No. 304-859

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 8, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 15, 2006, after it was believed that no response was received to the Notice to File Corrected Application Papers mailed June 14, 2006. The notice allowed a period for reply of two (2) 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 February 21, 2007, indicating that a reply to the Notice to File Corrected Application Papers was not received.

Petitioner states that a substitute specification in response to the Notice to File Corrected Application was timely filed. A copy of the substitute specification containing a certificate of mailing dated August 14, 2006 accompanies the petition. The response to the Notice to File Corrected Application was not found in the application file, but the evidence is convincing that a timely response was filed and misplaced. Based on the aforementioned, it appears that the application was improperly held abandoned. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to the Office of Patent Application Processing for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WEST PALM BEACH, FL 33402-3188

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MAY 09 2008

In re Application of

Hans-Michael Weller

Application No. 11/437,895

Filed: May 19, 2006

Attorney Docket No. 304-859

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 8, 2007.

The petition is **dismissed as moot**.

This application was held abandoned on August 15, 2006, after it was believed that no response was received to the Notice to File Corrected Application Papers mailed June 14, 2006. The notice allowed a period for reply of two (2) 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 February 21, 2007, indicating that a reply to the Notice to File Corrected Application Papers was not received.

Petitioner states that a substitute specification in response to the Notice to File Corrected Application was timely filed. A copy of the substitute specification containing a certificate of mailing dated August 14, 2006 accompanies the petition. The response to the Notice to File Corrected Application was not found in the application file, but the evidence is convincing that a timely response was filed and misplaced. Based on the aforementioned, it appears that the application was improperly held abandoned. The holding of abandonment was withdrawn pursuant to a decision mailed March 14, 2008. The petition under 37 CFR 1.137(b) is dismissed as moot, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to the Office of Patent Application Processing for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Silicon Valley Patent Group LLP
18805 Cox Avenue
SUITE 220
Saratoga, CA 95070

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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Lari, et al. :
Application No. 11/437,899 :
Application Filing Date: May 19, 2006 :
Attorney Docket No. ORA028/OID-2005009-01 CI

ON PETITION

This is a decision on the "Petition under 37 CFR 1.182 and/or 1.183" filed August 31, 2007. The petition will be treated as petition under 37 CFR 1.59 to expunge one of the amendments and Application Data Sheets filed October 31, 2007.

The petition is granted.

Petitioner requests that the amendment and Application Data Sheet , filed October 31,2 007, cancelling the benefit claim to application 10/848,635 be disregarded in favor the amendment and Application Data Sheet that were also filed October 31, 2007, to restore the benefit claim. It is noted that the benefit claim to application 10/848,635 was present on filing of the application. It is also noted that the neither Application Data Sheet filed August 31, 2007, was signed as is required by 37 CFR 1.33(b), so neither Application Data Sheet would have been entered. To avoid confusion as the application proceeds through examination, the instant petition is being treated as petition to expunge the amendment and Application Data Sheet filed October 31, 2007, which requested that the benefit claim be cancelled. A review of the application file history reveals that the amendment and Application Data Sheet are not a part of the original disclosure of the application.[1] (which would prohibit expungement pursuant to 37 CFR 1.59(a)) and the expungement of document would not result in the application becoming abandoned. The expungement of the amendment and Application Data Sheet filed October 31, 2007, which requested that the benefit claim be cancelled is appropriate.

Accordingly, the amendment and Application Data Sheet filed October 31, 2007, which requested that the benefit claim be cancelled will be expunged from the record..

Petitioner is advised that the documents cannot be returned as the original papers were scanned into an electronic file with the hard copies being destroyed thereafter.

[1] It is noted 37 CFR 1.59 explains that the original disclosure includes the specification, claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under 37 CFR 1.63 and 1.175.

The fee prescribed by 37 CFR 1.59(b) is $200.00. An additional $70.00 will be charged to deposit account 50-2263. See 37 CFR 1.17(g).

If petitioner would like for the Application Data Sheet to be entered, petitioner should file another Application Data Sheet that is signed in accordance with 37 CFR 1.33.

The application is being directed to Technology Center GAU 2195 for further processing.

Questions concerning this decision may be addressed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Law Offices of John W. Carpenter
405 Davis Court
Suite 707
San Francisco CA 04111

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Max D. Mize et al :
Application No. 11/437,964 : DECISION ON PETITION
Filed: May 19, 2006 :
For: BARRIER SYSTEM AND METHOD :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 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 October 24, 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 January 25, 2007. A Notice of Abandonment was mailed on May 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply (an amendment), (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of October 24, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3671 for appropriate action in the normal course of business on the reply received June 6, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/437,970	05/19/2006	Luan C. Tran	M122-3058

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

DATE MAILED: August 23, 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 16, 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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JUN 0 4 2008

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK G. BOCCHETTI
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

In re Application of
Crichton, John F. et al
Serial No.: 11/437,981
Filed: May 19, 2006
For: SECURE DOCUMENT PRINTING

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed October 2, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings/photographs, noted as Figures 11 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

A review of the file record reveals that applicant has provided three sets of color drawings, filed simultaneously with the subject petition and the required amendment to the specification.

Petitioner has satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition is **GRANTED**.

The application file will be forwarded to the examiner for action in appropriate turn.

Krista Zele
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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EMPK & SHILOH, LLP
116 JOHN STREET, SUITE 1201
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of
TERNOVSKY, Igor
Application No. 11/437,984
Filed: May 19, 2006
Attorney Docket No. **ELG-P-9262-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 June 5, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Andrew L. Tiajoloff on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ARABELLA SOFTWARE, LTD.**
15 ATIR YEDA STREET
KFAR SABA INDUSTRIAL AREA, ISREAL 44643

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MAR 17 2010

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105

In re Patent No. 7,582,432	: DECISION ON REQUEST
Cook, et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/437,991	: PATENT TERM ADJUSTMENT
Filed: May 19, 2006	: and
Atty Docket No. 061873-5004US02	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred and seventy-eight (278) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and seventy eight (278) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred and seventy-eight (278) days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,432 B2

DATED : Sep. 1, 2009

INVENTOR(S) : Cook, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (173) days

Delete the phrase "by 173 days" and insert – by 278 days--

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OCT 12 2007

OFFICE OF PETITIONS

In re Patent No. 7,217,884 :
Issue Date: May 15, 2007 :
Application No. 11/437,992 : ON PETITION
Filed: May 19, 2006 :
Attorney Docket No. 77335-0143 :

This is a decision on the petition filed June 14, 2007, 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**.

A $130.00 processing fee will be charged to deposit account no. 19-5029.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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FEB 25 2010

In re Application of	:	
Ni et al.	:	
Application No. 11/437,993	:	ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 08100.0045-00000	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

Applicant	: Mark Mingjun Xie	: DECISION ON REQUEST FOR
Patent Number	: 7581272	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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.

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511 SOUTH MADISON STREET
BLOOMINGTON IN 47402-2417

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OCT 3 0 2006
OFFICE OF PETITIONS

In re Application of
Congdon, et al.
Application No. 11/438,020
Filed: May 19, 2006
Attorney Docket No. 06-205
For: AUGER LOADING APPARATUS AND MACHINE WITH SAME

: DECISION DISMISSING PETITION

This is a decision on the petition filed August 14, 2006, entitled, "PETITION UNDER 37 CFR 1.10 AND RESPONSE TO NOTICE TO FILE MISSING PARTS", which is being treated as a petition under 37 CFR 1.181 as a request to withdraw the Notice to File Missing Parts of Nonprovisional Application, mailed June 13, 2006.

The petition under 37 CFR 1.181 is **dismissed**.

Petitioners argue that the June 13, 2006 Notice to File Missing Parts of Nonprovisional Application was mailed in error because an executed declaration was purportedly filed on May 19, 2006. In support of this assertion, petitioners have submitted their itemized return postcard that contains a stamp of EV 778400433US affixed thereto and a copy of the Express Mail label no. EV78400433US that lists 5 19 06 as the date-in. The same Express Mail label number is referenced on the Utility Patent Application Transmittal found in the application file.

Per MPEP 513, VII. PETITION FOR CORRESPONDENCE NEVER RECEIVED:
Where there is a dispute as to the contents of correspondence submitted to the Office..., an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. (Emphasis added)
Rather, 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 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 anydocument(s) or fee(s) that is not among the official records of the Office.

In the instant case, the return postcard submitted with the present petition does not appear to be stamped by the Office. Therefore, it cannot be used to prove the items listed on the postcard were filed on May 19, 2006. As stated above, Express Mail practice cannot prove the contents of the correspondence.

Therefore, the June 13, 2006 Notice will not be withdrawn. The petition under 37 CFR 181 is **dismissed**.

Petitioners have filed an executed declaration. Pursuant to petitioners' authorization, deposit account no. 50-0226 will be charged the required $130.00 late declaration surcharge.

This application is being returned to the Office of Initial Patent Examination for further processing.

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

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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	: Mong-Tung Lin	: DECISION ON REQUEST FOR
Patent Number	: 7625426	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,023	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: 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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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 05/18/2010

Applicant : Mong-Tung Lin
Patent Number : 7625426
Issue Date : 12/01/2009
Application No : 11/438,023
Filed : 05/19/2006

: 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 **808** 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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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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OFFICE OF PETITIONS

In re Application of	:	
Moecks et al.	:	
Application No. 11/438,033	:	ON APPLICATION FOR
Filed: May 19, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 23220	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed December 9, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least four hundred fifteen (415) days, not two hundred eleven (211) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HOUSTON TX 77219-1144

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OFFICE OF PETITIONS

In re Application of
Dan Dietz
Application No. 11/438,040
Filed: May 19, 2006
Attorney Docket No. 305 AH

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 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 amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed September 30, 2008, is accepted as having been unintentionally delayed.

The Revocation /Power of Attorney submitted on May 2, 2009 have been acknowledged. There were no attorneys of record to be revoked. However, the appointed attorneys with Customer No. 23508 have been made of record in the above identified application..

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner in the normal course of business on the reply received May 2, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Ulrich L. Rohde	: DECISION ON REQUEST FOR
Patent Number	: 7636021	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INFINEON
PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Heinrich Koerner	:	
Application Number: 11/438080	:	ON PETITION
Filing Date: 05/19/2006	:	
Attorney Docket Number:	:	
10808/332 (In1432US)	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181 FOR THE WITHDRAWAL OF HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed on December 22, 2008.

This application was held abandoned for failure to timely reply to the Office action requiring restriction and/or election mailed on April 16, 2008, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on October 23, 2008.

Petitioners assert that the Office action mailed on April 16, 2008 was never received. In support of that allegation, petitioners have submitted a copy of a docket record and provided a statement by registered patent practitioner Richard K. DeMille, stating that the practitioner searched the file jacket and the docket record but neither included a copy of the April 16, 2008 Office Action.

A review of the record indicates no irregularity in the mailing of the Office action mailed on April 16, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action mailed on April 16, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action mailed on April 16, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> 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.
>
> (emphasis added)

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Receipt of the amendment, including an election, filed in response to the Office action mailed on April 16, 2008 is acknowledged. As a reply to the Office action has been filed, it is unnecessary to remail the aforementioned Office action.

The application is being referred to Technology Center Art Unit 2818 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Jared K. Olson	: DECISION ON REQUEST FOR
Patent Number	: 7609073	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ORAMETRIX, INC.
2350 CAMPBELL CREEK BOULEVARD,
SUITE 400
RICHARDSON, TX 75082

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OFFICE OF PETITIONS

In re Application of	:	
Rudger RUBBERT, et al	:	
Application No. 11/438,109	:	DECISION ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 01-101-A	:	

This is a decision on the petition, filed July 2, 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 Office action mailed October 29, 2008, which set a period for reply of three (3) months. A Notice of Abandonment was mailed on June 24, 2009.

Petitioner asserts that the Office action dated October 29, 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.

This application is being referred to the Technology Center technical support staff of Art Unit 3732 for re-mailing the Office action of October 29, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/438,133	05/19/2006	Oscar Mario Saavedra	MET-036US1	9903

7590 07/23/2010
JOSEPH C. ZUCCHERO
SUITE 1200
500 WEST COMMINGS PARK
WOBURN, MA 01801

EXAMINER
RODRIGUEZ-GARCIA, VALERIE

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
07/23/2010	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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JOSEPH C. ZUCCHERO
SUITE 1200
500 WEST COMMINGS PARK
WOBURN MA 01801

In re Application of :
Saavedra et al.
Serial No.: 11/438,133 : Decision on Petition
Filed: May 19, 2006
Attorney Docket No.: **MET-036US1** :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on April 16, 2010, to withdraw the final rejection.

BACKGROUND

An 8-way restriction requirement was mailed to applicants on March 17, 2009.

Applicants made an election to the restriction requirement on May 14, 2009.

The examiner mailed to applicants a non-final Office action on August 14, 2009. Claims 1-3, 21, 22, 24, 25, 33 and 34 were rejected under 35 USC 112, first paragraph, as not being enabling for making and using prodrugs of the claimed compounds. Claims 1-3, 21, 22, 24, 25, 33 and 34 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 4, 5, 8-15, 23, 28, 30 and 35-44 were withdrawn from consideration.

On October 20, 2009, applicant submitted an amendment with remarks.

The examiner mailed to applicants a final Office action on February 18, 2010 setting forth new grounds of rejection. Claim 1 was rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 33 and 34 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 1, 33 and 34 were rejected under 35 USC 102 (b) as being anticipated by US Patent 6,492,383. Claims 1and 33 were rejected under 35 USC 102 (e) as being anticipated by US 2006/0074056. Claims 1, 33 and 34 were rejected under 35 USC 102 (e) as being anticipated by US 2008/0312232. Claims 1, 33 and 34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,53 73, 143, 149 and 186 of copending Application No. 11/191617. Claims 1, 33

and 34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 91, 92, 94-180, 114-121 of copending Application No. 11/419353. Claims 2-5, 8-15, 21-25, 28, 30, 32 and 35-44 were withdrawn from consideration.

On April 16, 2010, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

In the petition, applicants "respectfully submit that the search and examination procedure employed was inconsistent with Patent Office guidelines and deprived Applicants of their right to a full search of the claims. Therefore, Applicants request that the finality of the rejection be withdrawn and the claims searched to their full scope."

Applicants argue that "Under the search and examination procedure as employed in the present application, examination is conducted essentially piecemeal, with 35 USC § 112 issues addressed first and then, only after all 112 rejections have been overcome, a full search of the claims conducted and prior art issues addressed. The applicants respectfully submit this is in violation of the PTO requirement of compact examination (e.g., MPEP 707.07(g) and MPEP 2106(II) ("Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement.")), and MPEP § 803.02."

Applicants also "submit that following MPEP 803.02, a search of a Markush claim (which may include independent and distinct inventions) is to begin with the elected species and, if the species is allowable over the prior art, expanded to the full scope of the claims allowable over the prior art. The search may be stopped short of the full scope <u>only if prior art is found</u> that renders the claims unpatentable as anticipated or obvious; <u>rejections under 35 USC § 112 are not a proper basis for limiting the search to the elected species</u>. This is consistent with the policy of compact prosecution, which requires simultaneous examination of the claims as to all bases of patentability.

Because an improper search and examination procedure was employed and the applicants denied the search to which they were entitled, the applicants respectfully submit that the Office should search the claims to the scope permitted by the prior art, up to the full scope of the claims. Should prior art be identified, a non-final action would be appropriate to permit the applicants an opportunity to amend the claims and/or argue in favor of patentability. If the prior art rejection is thereby overcome, the search should be expanded once again, as is consistent with the example provided in MPEP § 803.02."

Accordingly, it is decided that Applicants' arguments are well-taken and found persuasive.

DECISION

The petition is **GRANTED**. The Office action mailed February 18, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a "non-final" Office action. The after final amendment of April 16, 2010 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

Should there be any questions about this decision, please contact Special Program Examiner Marianne Seidel, 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.

George C. Elliott for

Remy Yucel
Acting Director, Technology Center 1600

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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TEL AVIV 69016 IL ISRAEL

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Naumov, et al.	:	
Application No. 11/438,145	:	DECISION
Filed: 22 May, 2006	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 31 July, 2008, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a).

The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

Petitioner's alternative is to file a petition under 37 C.F.R. §1.137(b), discussed below.

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the showing requirement as to unavoidable delay.

BACKGROUND

The record reflects as follows:

Following a non-final Office action mailed on 6 September, 2007, and Petitioner's reply in the form of an amendment on 9 October, 2007, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 23 October, 2007, with reply due under a non-extendable deadline on or before 23 November, 2007.

The application went abandoned after midnight 23 November, 2007.

It appears that the 23 October, 2007, Notice was returned to the Office on 20 December, 2007, as undelivered.

The Office mailed the Notice of Abandonment on 30 May, 2008.

On 14 July, 2008, Petitioner filed an amendment.

On 30 July, 2008, Petitioner filed a Notice of Change of Address.

On 31 July, 2008, Petitioner filed the instant petition without fee (which was later corrected and is discussed below), a reply in the form of an amendment, and Petitioner averred as to unavoidable delay, *inter alia*, that he previously had informed the Office of a Change of Address, and that information had not been entered, and he was not at fault for that failure.

On 18 September, Petitioner submitted a fee for the petition, however the amount of the fee paid was $770.00, which is inappropriate for a petition under 37 C.F.R. §1.137(a) alleging unavoidable delay—a partial refund has been scheduled by way of Treasury check.

Petitioner is not within the United States and is not in a position to take advantage of the mailing provisions of 37 C.F.R. §1.8 or §1.10, and thus the guidance at MPEP §503 (*see*: Rules and MPEP at www.uspto.gov). Petitioner should be aware, however, that Petition may transmit papers *via*:

- FAX to the Office FAX-Filing number (set forth below); or
-
- Electronic Filing (EFS) online and receive electronic acknowledgment receipts for those filings.

In addition, if Petitioner properly obtains a Customer Number and then associates this number with the instant application, Petitioner may then be able to view the contents and progress of his application online in real time.)

Thus, because:

- the Image File Wrapper (IFW) does not indicate Office receipt of Petitioner's 10 December, 2006, letter regarding his address; and

- Petitioner erroneously included within an amendment submission a statement of different address 37 C.F.R. §1.4(b) and (c)

as of this writing there is no demonstration of record that Petitioner timely and properly Noticed the Office as to his change of address before the mailing of the 23 October, 2007, Notice by the Office.

Therefore, as of this writing, the showing of record does not appear to meet the test of diligence set forth as a touchstone in *ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887) for determination as to unavoidable delay.

Out of an abundance of caution, Applicants 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]

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.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to make the showing of unavoidable delay as required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **dismissed**.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. 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.) Petitioner should also refer to the Fee Schedule also online to determine the appropriate fees at the time of any given proposed transaction.

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[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./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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 Petitioners 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 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Naumov, et al.	:	
Application No. 11/438,145	:	DECISION
Filed: 22 May, 2006	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 7 November, 2008, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Following a non-final Office action mailed on 6 September, 2007, and Petitioner's reply in the form of an amendment on 9 October, 2007, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 23 October, 2007, with reply due under a non-extendable deadline on or before 23 November, 2007.

The application went abandoned after midnight 23 November, 2007.

It appears that the 23 October, 2007, Notice was returned to the Office on 20 December, 2007, as undelivered.

The Office mailed the Notice of Abandonment on 30 May, 2008.

On 14 July, 2008, Petitioner filed an amendment.

On 30 July, 2008, Petitioner filed a Notice of Change of Address.

On 31 July, 2008, Petitioner filed a petition without fee (which was later corrected and is discussed below), a reply in the form of an amendment, and Petitioner averred as to unavoidable delay, *inter alia*, that he previously had informed the Office of a Change of Address, and that information had not been entered, and he was not at fault for that failure.

On 18 September, Petitioner submitted a fee for the petition, however the amount of the fee paid was $770.00, which is inappropriate for a petition under 37 C.F.R. §1.137(a) alleging unavoidable delay—a partial refund has been scheduled by way of Treasury check. (Petitioner is not within the United States and is not in a position to take advantage of the mailing provisions of 37 C.F.R. §1.8 or §1.10, and thus the guidance at MPEP §503 (*see*: Rules and MPEP at www.uspto.gov). Petitioner should be aware, however, that Petition may transmit papers *via*: FAX to the Office FAX-Filing number (set forth below); or Electronic Filing (EFS) online and receive electronic acknowledgment receipts for those filings. In addition, if Petitioner properly obtains a Customer Number and then associates this number with the instant application, Petitioner may then be able to view the contents and progress of his application online in real time.) Thus, because: the Image File Wrapper (IFW) did not indicate Office receipt of Petitioner's 10 December, 2006, letter regarding his address; and Petitioner erroneously included within an amendment submission a statement of different address 37 C.F.R. §1.4(b) and (c); thus, as of that writing there was no demonstration of record that Petitioner timely and properly Noticed the Office as to his change of address before the mailing of the 23 October, 2007, Notice by the Office. The petition was dismissed on 29 September, 2008, because the showing of record did not appear to meet the test of diligence set forth as a touchstone in *ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887) for determination as to unavoidable delay.

On 7 November, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with fee, a reply in the form of an amendment, and made a statement of unintentional delay. It appears that this filing was repeated in part and/or supplemented on 11 February, 2009.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2855 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/30/2010

Applicant	: Anand G. Dabak	: DECISION ON REQUEST FOR
Patent Number	: 7656934	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **690** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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MAR 19 2010

In re Application of	:	
Joji Nishimura	:	
Application No. 11/438156	:	DECISION
Filing or 371(c) Date: 05/22/2006	:	ON PETITION
Patent No.: 7502084	:	
Issue Date: 03/10/2009	:	
Attorney Docket Number: 128051	:	

This is a decision on the "Request for Patent to be Corrected to State the Name of the Assignee Under 37 C.F.R. § 3.81(b) and Request for Certificate of Correction Under Rule 323," filed April 21, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that EPSON IMAGING DEVICES CORPORATION is the assignee of record. 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.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

The processing fee and Certificate of Correction fee has been charged to Petitioner's deposit account.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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MAY 19 2010

OFFICE OF PETITIONS

DOUGLAS J. HURA, ESQUIRE
DENTSPLY INTERNATIONAL INC.
570 WEST COLLEGE AVENUE
P.O. BOX 872
YORK PA 17405-0872

In re Application of	:	
Anderson et al.	:	
Application Number: 11/438160	:	ON PETITION
Filing Date: 05/22/2006	:	
Attorney Docket Number: GAC-1980-1CON	:	

This is a decision in response to the petition under 37 CFR 1.137(b)[1] filed on February 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 12, 2008, for failure to file a timely reply to the non-final Office action

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed on August 11, 2008, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on February 20, 2009.

Petitioner states that the reply being filed is a continuation application. A review of Office PALM records reveals that continuing Application No. 12/709,704 was filed on February 22, 2010 as a continuation of the subject application.

Since this application is revived for purposes of continuity only with continuing Application No. 12/709,704, filed on February 22, 2010, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced application.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on February 22, 2010, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on August 11, 2008, and therefore is unnecessary. The extension of time fee paid on February 22, 2010, will be refunded to counsel.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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San Jose CA 95113

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FEB 07 2007
OFFICE OF PETITIONS

In re Application of Maheshwari et al. Application No. 11/438185 Filing or 371(c) Date: 05/22/2006 Title of Invention: TERNARY CONTENT ADDRESSABLE MEMORY (TCAM) CELLS WITH LOW SIGNAL LINE NUMBERS	: : : : : : : :	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47, filed October 12, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Bin Jiang, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. BIN JIANG
1186 N. ABBOTT AVENUE
MULPITAS, CA 95035

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Maheshwari et al.	:	
Application No. 11/438185	:	LETTER
Filing or 371(c) Date: 05/22/2006	:	
Title of Invention:	:	
TERNARY CONTENT ADDRESSABLE	:	
MEMORY (TCAM) CELLS WITH LOW	:	
SIGNAL LINE NUMBERS	:	

Dear Mr. Jiang:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: WALKER & SAKO, LLP
Suite 235
300 South First Street
San Jose CA 95113

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RYNDAK & SURI LLP
200 W. MADISON STREET, SUITE 2100
CHICAGO IL 60606

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of :
DURHAM :
Application No. 11/438,195 :
Filed: May 22, 2006 :
Attorney Docket No. 40120-10024DIV :

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 2, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James D. Ryndak 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 Steven Durham 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: **STEVEN DURHAM**
166 BERMUDA COURT
PONTE VEDRA BEACH, FL 32082

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PAUL D. BIANCO: FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI, & BIANCO P.L.
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven Durham	:	
Application No. 11/438,195	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. 7854-A06-003	:	FROM RECORD
	:	

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 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fliet, Kain, Gibbons, Gutman, Bongini, & Bianco, P.L., has been revoked by the assignee of the patent application on November 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below 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: STEVEN DURHAM
166 BERMUDA COURT
PONTE VEDRA BEACH, FL 32082

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THE MILLER LAW OFFICES, PLC
801 BRICKELL AVE
SUITE 900
MIAMI, FL 33131

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven DURHAM	:	
Application No. 11/438,195	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. 7854-A06-003		FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys/agents of record must be withdrawn by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEVEN DURHAM
166 BERMUDA COURT
PONTE VEDRA BEACH, FL 32082

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CHICAGO, IL 60647

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OFFICE OF PETITIONS

In re Application of	:	
Steven DURHAM	:	
Application No. 11/438,195	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. ELS-P-09-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Stephen T. Scherrer of the attorneys of record associated with Customer No. 29013.

The attorneys of record associated with Customer No. 29013 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEVEN DURHAM
695 N. A1A UNIT 106
PONTE VEDRA BEACH, FL 32082

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AUG 01 2008

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of:	:
Kintrup et al.	: PETITION DECISION
Serial No.: 11/438,199	:
Filed: May 22, 2006	:
Attorney Docket No.: 30187/40833A	

This is in response to the petition under 37 CFR § 1.181, filed July 1, 2008, requesting that the finality of the Office action of May 1, 2008 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on June 19, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-21 were pending and claims 2, 5 'in part' and 16-19 were withdrawn from examination on the merits as being directed toward a non-elected invention, leaving claims 7-15, 20 and 21 for examination on their merits.

In this non-final Office action, the examiner instituted the following objections and rejections:

1) Claims 7-15 and 20-21 were objected to for being improper multiply dependant and therefore the examiner indicated that these claims would not be further treated on the merits,

2) Claims 1, 3, 4, 5 (in part) and 6 were objected to due to minor informalities in the claims.

3) Claims 1 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. in view of Wang et al. and Sigal et al. and Bergstrom et al. and

4) Claims 1, 3, 4, 5 (in part) and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. in view of Wang et al. and Sigal et al. and Bergstrom et al. further in view of Schulte-Spectel et al.

In response to the non-final Office action of July 19, 2007, applicants replied on November 16, 2007 submitting arguments, amending the claims; and adding new claims 22-25, of which claim 25 was indicated as withdrawn.

The examiner mailed a final Office action on May 1, 2008 setting a three month statutory limit for reply. At the time of this final Office action, claims 1 and 3-25 were pending, claims 2, 16-19 and 25 were withdrawn from examination on their merits as these claims were directed toward a non-elected invention and claims 1, 3-15 and 20-24 were examined. In this action, the examiner removed the objections to claims 1, 3-15 and 20-21 which were made in the non-final Office action, indicating that: "The objections to claims 1, 3-15 and 20-21 is withdrawn in view of the amendment to claims 7-15 and 20-21 to correct improper multiple dependencies and the amendments to claims 1 and 3-6 to start the claims with the article "A" or "The"" (see p. 2, final Office action).

In this final Office action, the examiner instituted the following rejections:

1) Claims 1, 3, 8, 9, 13, 14, 15, 22 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. in view of Wang et al. and Sigal et al. and Bergstrom et al.,

2) Claims 1, 3-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. and Wang et al. and Sigal et al. and Bergstrom et al. as applied to claims 1, 3, 8, 9, 13, 14, 15, 22 and 24 above further in view of Schulte-Spectel et al.,

3) Claims 11 and 23 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention,

4) Claims 10, 12 and 20-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. and Wang et al. and Sigal et al. and Bergstrom et al. as applied to claims 1, 3, 8, 9, 13, 14, 15, 22 and 24 above further in view of Levin et al.,

5) Claims 10, 12 and 20-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. and Wang et al. and Sigal et al. and Bergstrom et al. and Schulte-Spectel et al. as applied to claims 1, 3, 4-7, 8, 9, 13, 14, 15, 22 and 24 above further in view of Levin et al.,

6) Claims 10, 11 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. and Wang et al. and Sigal et al. and Bergstrom et al. as applied to claims 1, 3, 8, 9, 13, 14, 15, 22 and 24 above further in view of Wilske et al. and Cepok et al.,

7) Claims 10, 11 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. 35 and Wang et al. and Sigal et al. and Bergstrom et al. and Schulte-Spectel et al. as applied to claims 1, 3, 4-7, 8, 9, 13, 14, 15, 22 and 24 above further in view of Wilske et al. and Cepok et.,

8) Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al.

and Wang et al. and Sigal et al. and Bergstrom et al. as applied to claims 1, 3, 8, 9, 13, 14, 15, 22 and 24 above, in view of Harvey et al., and

9) Claims 14 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. and Wang et al. and Sigal et al. and Bergstrom et al. as applied to claims 1, 3, above further in view of Luotola et al.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on July 1, 2008, requesting that the finality of the Office action of May 1, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In this petition filed on July 1, 2008, applicants argue that the final Office action mailed on May 1, 2008 was premature and improper and request that the finality of said Office action be removed.

Applicants first argue that the rejection of claims 7-15 and 20-21 in the final Office action was improper because applicants contend that these claims should have been properly examined in the non-final Office action. Specifically, applicants state the following:

> In the non-final Office action, the Examiner stated that claims 7-15 and 20-21 were not examined on the merits because these claims were in an improper multiple dependent claim format. The rejections of amended dependent claims 10-12 and 14 in the final Office action were based on new combinations of art that were not previously presented in the non- final Office action. Even if these claims were not properly multiple dependent claims before Applicants' response to the non-final action, the amendments to these claims to make them in a proper dependent form should reasonably have been expected by the Examiner to be made, especially in view of the Examiner's objection to these claims in the non-final Office action for being in improper multiple dependent claim format. Moreover, M.P.E.P. 707.07(g) states that "[p]iecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references." (emphasis added). Thus, it was improper for the Examiner not to examine claims 7-15 and 20-21 on the merits in the non-final Office action, and improper to make the first substantive rejection of these claims "final" in the second action. (p. 2, Petition)

In support of these contentions, applicants cite the MPEP § 706.07(a):

> A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed.

The MPEP makes clear that improper multiply dependant claims are not to be further treated on the merits (see MPEP § 608.01(n)). A review of claims 7-15 and 20-21 at the time the first Office action was mailed indicates that these claims were improper multiple dependant claims because these multiple dependent claims depended from other multiple dependant claims. Hence, claims 7-15 and 20-21 were properly objected to and omitted from examination on the merits by the examiner. Applicants do not contradict the fact that claims 7-15 and 20-21 were

improper multiply dependant but allege that the examiner should have reasonably expected that applicants would amend the claims in the manner presented by the amendments submitted on November 16, 2007. However, in addition to excerpt recited from the MPEP § 706.07(a) cited by applicants, MPEP § 706.07(a) also states that: "an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)." In the present instance, the examiner could not reasonably foresee, amongst the various possible permutations of embodiments, how applicants would amend these claims. Therefore, applicants' arguments pertaining to the new rejections of claims 7-15 and 20-21 in the final Office action are not persuasive.

With regard to the new rejections of claims 22-25 made by the examiner in the final Office action, applicants assert:

> The phrase 'wherein said antigens are present on different carrier positions separated from each other' was recited in original claim 1:, the phrase 'wherein the Borrelia-independent conjugate control substance is selected from the group consisting of IgA, IgG and IgM conjugage control substances' was recited in original claim 11; the phrase 'wherein the fixed carrier is selected from the group consisting of a strip, a membrane, a filter, a paper, a film and a pearl' was recited in original claim 13; and the phrase 'wherein the liquid sample is selected from the group consisting of blood, plasma, serum, urine, liquour, saliva, liquefied tissue sample and synovial fluid' was recited in original claim 19. Thus the amendment did not add any new limitations to the claims; it merely moved limitations into new claims that were previously recited (e.g., as preferred embodiments) in several original claims examined by the Examiner" (pp. 5-6, Petition)

Applicants' argument pertaining to claim 22 is not persuasive because claim 22, newly added in the amendment filed on November 16, 2007, was rejected over the same prior art used to reject claim 1 in the non-final Office action; that being a rejection under 35 U.S.C. 103(a) over Jain et al. in view of Wang et al. in view of Sigal et al. in view of Bergstrom et al. Hence, the rejection of claim 22 using the same references used to reject claim 1 in the non-final Office action was a proper rejection, said rejection being necessitated by the addition of claim 22 in the amendment of November 16, 2007.

While the phrases present in claims 23 and 24, newly added in the amendment filed on November 16, 2007, were originally present in claims 11 and 13 as correctly stated by applicants, claims 11 and 13 were properly not examined in the non-final Office action because these claims were improper multiply dependant claims. Hence, the new rejections of these claims were necessitated by applicants' amendment to claims 11 and 13 placing them in proper dependent form. Thus, applicants' arguments pertaining to these claims are not persuasive.

Applicants' argument toward claim 25 is moot considering claim 25 was not newly rejected in the final Office action; rather, claim 25 was withdrawn from examination on the merits in the final Office action since claim 25 depends upon withdrawn claim 18. It should also be noted that applicants indicate claim 25 as "(New/Withdrawn) in their response of November 1, 2007.

Thus, applicants' arguments are not persuasive that the final Office action rendered on May 1, 2008 was improper and the finality of said Office action will not be withdrawn.

DECISION

The petition is **DENIED.**

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
GIAMPAPA, Vincent C.	:	
Application No. 11/438,204	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. **425.118.1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 02, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SURACELL, INC.**
41 WATCHUNG PLAZA
#316
MONTCLAIR, NJ 07042

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

MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

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SEP 18 2008

In re Application of	:	
GIAMPAPA, Vincent	:	
Application No. 11/438,204	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. **425.118.1**	:	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 March 20, 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 Melvin K. Silverman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed August 04, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **VINCENT C. GIAMPAPA**
12 ROBINWOOD DRIVE
LITTLE FALLS, NJ 07424

cc: **SURACELL, INC.**
41 WATCHUNG, PLAZA, #316
MONTCLAIR, NJ 07042

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LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Sang-jin PARK, et al	:	
Application No. 11/438,211	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 2875.0080002	:	FROM RECORD
	:	

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, 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 all of the acts noted above have been performed. Please see the attached form SB/83 Request for Withdrawal as Attorney or Agent.

The request cannot be approved because the attorneys of record were not appointed by Customer No. 27849, as indicated.

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 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: JOHN A. CASTELLANO, ESQ.
HARNESS, DICKEY & PIERCE
11730 PLAZA AMERICA DRIVE,
SUITE 600
RESTON, VA 20190

Attachment: PTO/SB/83 – Withdrawal of Attorney or Agent

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/438,212	05/23/2006	Kozo Kitagawa	SN-US055256

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

DATE MAILED: June 21, 2007

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on May 29, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/438,215	05/23/2006	Woon-geun Kwak	0086.1005	9295

7590 10/09/2008

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER
SHALWALA, BIPIN H

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/09/2008	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

Adjustment date: 10/10/2008 BPOWELL
05/24/2006 YPOLITE1 00000054 11438215
02 FC:1111 -500.00 OP
04 FC:1202 -1150.00 OP
05 FC:1201 -600.00 OP

Refund Ref:
10/10/2008 0030062169

Credit Card Refund Total: $1600.00

Am Exp..: XXXXXXXXXXX1007

FORM PET651G (Rev. 08/07)

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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Patent No. 7,336,583	:	
Issue Date: February 26, 2008	:	
Application No. 11/438,218	:	DECISION ON PETITION
Filed: May 23, 2006	:	
Attorney Docket No. R2184.0097/P097-E	:	

This is a decision on the petition filed January 8, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner does not indicate whether the original Letter of Patent was not received or whether the Letter of Patent was received and then lost or destroyed. Any request for duplicate Letter of Patent must clearly state what happened to the original Letter of Patent.

If the original Letters Patent was never received, the Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent 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 Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

If the original Letter of Patent was lost or destroyed, the renewed petition should so state.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APR 23 2009

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Patent No. 7,336,583 :
Issue Date: February 26, 2008 :
Application No. 11/438,218 : DECISION ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. R2184.0097/P097-E :

This is a decision on the petition filed March 27, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,336,583 on May 23, 2006. Petitioner contends, however, that the Letters of Patent was received and lost thereafter.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

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MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW LLC
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD SUITE 1400
ATLANTA GA 30339

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Reed, et al.	:	
Application No. 11/438,232	:	ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. 23970-RA	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 31, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to timely file a proper reply to the non-final Office action mailed May 22, 2007. This Office action set an extendable period for reply of three months. Applicants filed a reply on November 20, 2007, made timely by obtaining a three month extension of time. However, in a Notice of Non-Compliant Amendment mailed December 7, 2007, the Office informed applicants that the reply was not compliant, and therefore would not be entered. The Notice informed applicants that the period for reply would be one month. No further reply having been received, the application became abandoned on January 8, 2008. The Office mailed a Notice of Abandonment on July 23, 2008.

Petitioner asserts that he didn't receive the December 7, 2007 Notice of Non-Compliant Amendment.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of January 7, 2008. An entry for the instant application is absent, supporting the conclusion that the Notice of Non-Compliant Amendment was not received. In addition, petitioner has stated that the Notice was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 3749 for consideration of the "Advance Response to Reissued Notice of Informal or (Originally Mailed 12/07/2007, Non-Received by Applicant)", filed July 31, 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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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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OFFICE OF PETITIONS

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of :
B. Benjamin Saketkhou :
Application No. 11/438,233 : ON PETITION
Filed: May 22, 2006 :
Attorney Docket No. 2818U.001 :

This is a decision in response to the petition, filed August 14, 2009, 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 timely file a reply to the non-final Office action of May 29, 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) was obtained. Accordingly, the application became abandoned on August 30, 2008. A Notice of Abandonment was mailed on December 31, 2008. On August 14, 2009, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

It is noted that the petition did not include a response in the present application to continue prosecution; however, petitioner indicates the reply to the outstanding Office action is in the form of a "continuation-in-part U.S. Patent Application No. 12/541,739 for purposes of continuity only". The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation-in-part application.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuation-in-part application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation-in-part application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the Application No. 12/541,739, filed August 14, 2009. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/541,739.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of
Tanaka et al.
Application No. 11/438,252
Filed: May 23, 2006
Attorney Docket No. 9066-000002/US
Title: Liquid Crystal Display Device

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed January 10, 2007 under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on May 23, 2006, without an executed oath or declaration. Accordingly, on June 12, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 12, 2006.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, a partially executed declaration, and a five month extension of time to make the petition timely. Petitioner submitted $130.00 towards the petition fee. However the current petition fee is $200.00. Accordingly, deposit account 08-0750 will be charged the $70.00 difference.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

As to item (2), 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 inventors' most recent home addresses must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. The addresses provided in the declaration and in the petition appear to be business addresses. The last known addresses must be supplied in an executed declaration or application data sheet (ADS).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 8910
RESTON VA 20195

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of
Yasutake Furukoshi
Application No.11/438,253
Filed: May 23, 2006
Attorney Docket Number: 6547D-000003/US

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(b), filed January12, 2007.

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 May 23, 2006, without an executed oath or declaration, and naming Yasutake Furukoshi as the sole inventor. Accordingly, on June 12, 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 and the surcharge for late filing of the declaration. To make timely a five (5) 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 (1), (2), (5) and (6).

Proof That the Non-signing Inventor Cannot Be Reached or Refuses to Sign the Oath or Declaration

As to item (1), before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including

claims, drawings, and oath or declaration) to the non-signing 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. See MPEP 409.03(d).

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.

It is not evident that a statement has been provided from the person who heard the refusal of inventor Yasutake Furukoshi.

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. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). Petitioner has provided a statement which only avers to the facts that the inventor is required to state pursuant to 37 CFR 1.64(b). However the person who executes the declaration must also aver to the requirements of 37 CFR 1.63.

Further 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. The address provided in the declaration appears to be a business address. The last known address must be supplied in an executed declaration or application data sheet (ADS).

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 states that there is an employment agreement which gives the applicant proprietary interest, however a copy of the agreement has not been provided.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of
Yasutake Furukoshi
Application No.11/438,253
Filed: May 23, 2006
Attorney Docket Number: 6547D-000003/US

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 C.F.R. §1.47(b), filed October 5, 2007.

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 May 23, 2006, without an executed oath or declaration, and naming Yasutake Furukoshi as the sole inventor. Accordingly, on June 12, 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.

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) and (5).

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. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name,

residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

The first page of the Declaration does not list the inventor and the assignee signing on behalf of the non signing inventor and the Declaration does not include page numbers for each of the declaration --i.e. 1 of 2; 2 of 2. Instead the Declaration submitted with n identifies only inventor Furukoshi without reference to the assignee signing on behalf of the non signing inventor. The added page to combined declaration which has been executed by Shiego Terashima does not include a page number. The title of the document "Added Page to Combined Declaration..." alone is not sufficient. The declaration as provided appears to end on page three.

Petitioner is reminded the Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

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).

The evidence petitioner has submitted in the form of a statement made by Shiego Terashima of Sharp Corporation is not sufficient to establish sufficient proprietary interest.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Best Available 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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

COPY MAILED
SEP 15 2008

In re Application of	:	
Yasutake Furukoshi	:	DECISION GRANTING STATUS
Application No. 11/438,253	:	UNDER 37 CFR 1.47(b)
Filed: May 23, 2006	:	
Attorney Docket No. 6547D-000003/US	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 13, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Yasutake Furukoshi
330-1-607 Kanigaya Takatsu-Ku
Kawasaki-shi, Kanagawa 213-0025
Japan

COPY MAILED
SEP 15 2008

In re Application of
Yasutake Furukoshi
Application No. 11/438,253
Filed: May 23, 2006
Attorney Docket No. 6547D-000003/US

Dear Mr. Furukoshi.:

You are named as the sole inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As 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 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) 272-3215. 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 the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Charlema Grant
Petitions Attorney
Office of Petitions

cc: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195
ATTN: Donald J. Daley

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Nath & Associates
112 South West Street
Alexandria, VA 22314

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MAR 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Anvar U. Buranov	:	
Application No. 11/438,373	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 27340U	:	FROM RECORD
	:	

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 **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 Joshua B. Goldberg 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 Anvar U. Buranov 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: **Anvar U. Buranov**
101-298 Maple Street
Penticton, BC V2A 5V7
Canada

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
11/438,373	05/23/2006	Anvar U. Buranov	27340U

CONFIRMATION NO. 3808

POWER OF ATTORNEY NOTICE

20529
NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

OC000000028882519

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

Mail Date: 04/20/2010

Applicant	: Yasusuke Iwashita	: DECISION ON REQUEST FOR
Patent Number	: 7619384	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH MA 01752

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OFFICE OF PETITIONS

In re Application of	:	
Felisa Blazek	:	
Application No. 11/438,402	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. BZK-001CON1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 18, 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, ***law firm is downsizing and is unable to continue prosecution of this application***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Felisa Blazek**
399B Portsmouth Avenue
Stratham, NH 03885

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRUCE MORRIS
E.4103 RICH
SPOKANE WA 99217

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Morris	:	
Application No. 11/438,412	:	DECISION
Filed22 May, 2006	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 23 March, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 22 September, 2008, with reply due under a non-extendable deadline on or before 22 December, 2008.

The application went abandoned after midnight 22 December, 2008.

The Office mailed the Notice of Abandonment on 23 January, 2009.

On 23 March, 2009, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b) and averred unintentional delay, with a reply previously filed in the form of fees due.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the 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[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SEP 25 2006

OFFICE OF PETITIONS

ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Application of	:	
Ho, et al.	:	DECISION ACCORDING STATUS
Application No. 11/438,429	:	UNDER 37 CFR 1.47(a)
Filed: May 23, 2006	:	
Attorney Docket No. MR3387-69	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 31, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor Ho has refused to sign the declaration after having been forwarded the application papers to her last known address.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to Group Art Unit 2111 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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LIN-RAY HO
7F NO 106
JHOUZIH ST
NEIHU DISTRICT
TAIPEI CITY 114
TAIWAN ROC

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Lin-Ray Ho, Yu-Chang Lin :
Application No. 11/438,429 :
Filed: May 23, 2006 :
Title: Flash Memory Disk : LETTER

Dear Mr Ho:

You are named as a joint inventor in the above-identified United States patent reissue application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Morton J. Rosenberg
Rosenberg Klein & Lee
3458 Ellicott Center Dr.
Suite 101
Ellicott City, MD 21043

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
John **POLK**	:	
Application No. 11/438,443	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **6556.0018-02**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 26, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. William J. Brogan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2169 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
John POLK	:	
Application No. 11/438,443	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **6556.0018-02**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 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 21, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2156 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Lambertus Joseph M. Kruijsen	: DECISION ON REQUEST FOR
Patent Number	: 7597672	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 04/27/2010

Applicant	: Dorothea Reilly	: DECISION ON REQUEST FOR
Patent Number	: 7655783	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **382** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Robert M. Wallace
Patent Attorney
Suite 102
2112 Eastman Ave.
Ventura, CA 93003

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OFFICE OF PETITIONS

In re Application of	:
Brown, Sherstinsky, Mehta, Wang, Piptone,	:
Ahmann, and Valverde	:
Application No. 11/438,496	: DECISION REFUSING STATUS
Filed: May 22, 2006	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 009383 USA P08/CPI/COOPER	:

For: **PHYSICAL VAPOR DEPOSITSION PLASMA REACTOR WITH ARCING SUPPRESSION**

This is a decision on the petition under 37 CFR 1.47(a), filed September 11, 2006.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on May 22, 2006 , without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 13, 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 11, 2006, with an extension of time within the first month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application paper should be sent to the last known address of the non-signing inventor . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition suggests that inventor Ahmann is refusing to join the prosecution of the application, it is not clear whether he was provided with a complete copy of the application papers, not just the assignment and declaration. The renewed petition must be accompanied by evidence that an attempt was made to present inventor Ahmann with a complete copy of the application papers.

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

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OFFICE OF PETITIONS

In re Application of :
Brown, Sherstinsky, Mehta, Wang, Piptone, Ahmann, :
and Valverde :
Application No.: 11/438,496 : DECISION NOTING JOINDER
Filed: May 22, 2006 :
Attorney Docket No: 009383 USA P08/CPI/COPPER :
FOR: Physical Vapor Deposition Plasma Reactor with Arcing Suppression

This is in response to the renewed petition under 37 CFR 1.47(a) filed December 29, 2006, noting the joinder of inventor Ahmann in the above-cited application.

The renewed petition under 37 CFR 1.47(a) is **dismissed as moot**.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously nonsigning inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration for inventor Ahmann has been entered and made of record.

The renewed petition was accompanied a $200.00 petition fee. The petition fee is not required as it was paid with petition filed September 11, 2006. The amount of $200.00 will be refunded to deposit account 50-0338, in due course.

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) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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In re Application of	:	
Brian Morin	:	
Application No. 11/438,515	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. ILX-1-CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 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 September 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2008. Accordingly, the date of abandonment of this application is September 3, 2008 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of 300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for processing into a patent.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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In re Patent No. 7,395,806 :
Application No. 11/438,523 :
Filed: May 22, 2006 ON PETITION
Issued: July 8, 2008 :
Attorney Docket No. FEVG-10302/08 :

This is a decision on the petition filed December 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ERIC P MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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OFFICE OF PETITIONS

In re Application of	:	
Kimon Angelides	:	
Application No. 11/438,529	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. BNV-5-Con1	:	

This is a decision on the paper titled "PETITION", filed June 26, 2006, requesting, in effect, that the above-identified application be accorded a filing date of May 22, 2006, with Figure 3 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on May 22, 2006. However, on June 16, 2006, the Office mailed a "Notice of Omitted Items", stating that the application had been accorded a filing date of May 22, 2006; however, Figure 3 of the drawings appeared to have been omitted.

In response, the present response was filed. Petitioner argues that Figure 3 was included with the application papers as originally filed. However, petitioner has not submitted a postcard receipt as *prima facie* evidence.

Pages not present on the filing date cannot be considered a part of the original disclosure of the application. As Figure 3 of the drawings was not present in the Office on May 22, 2006, the application can not be accorded the May 22, 2006 filing date with Figure 3 of the drawings as a part of the original disclosure.

Accordingly, the Notice mailed on June 16 2006 **was** correct in stating that Figure 3 of the drawings appeared to have been omitted from the application papers filed on May 22, 2006. Therefore, the requirement for the omitted figure of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference via a priority claim pursuant to 37 C.F.R. § 1.57(a).

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference via the priority claim, Figure 3 of the drawings is not new matter if it was a part of the disclosure of provisional application No. 60/406,509.

Applicant should file an amendment adding Figure 3 of the drawings for consideration by the Examiner prior to the first Office action. Alternatively, if applicant has a postcard receipt, applicant can supply such on renewed petition to establish that Figure 3 of the drawings was present on filing.

As this petition was necessitated by applicant's filing error rather than an error on the part of the Office, the petition fee of $400 has been charged and will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed May 22, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ERIC P. MIRABEZ
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35 TECHNOLOGY DRIVE
WARREN NJ 07059

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In re Application of	:	
Kimon Angelides	:	
Application No. 11/438,535	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. BNV-3-Con1	:	

This is a decision on the petition filed June 26, 2006, requesting that the above-identified application be accorded a filing date of May 22, 2006, with pages 2-6 of the specification as part of the original disclosure.

On May 22, 2006, applicant filed the above-identified application. On June 16, 2006, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of May 22, 2006, and advising applicant that pages 2-6 of the specification (description and claims) appeared to have been omitted. Additionally, the Notice required applicant to pay additional claim fees in the total amount of $1,205.00 for a small entity ($1,025.00 for 41 total claims over 20 and $180.00 for multiple dependent claim surcharge). The Notice set a two-month extendable period to pay the required fees to avoid abandonment.[1]

In response, on June 26, 2006, applicant submitted the present petition, the petition fee, and a copy the application papers (including pages 2-6 of the specification), which applicant alleged were filed on May 22, 2006. Specifically, applicant asserted pages 2-6 of the specification were part of the original application papers filed in the USPTO on May 22, 2006. In support of the assertion, practitioner, Eric P. Mirabel stated: "The undersigned retained a complete copy of the application (included) and it can be seen that these pages are included therewith."

[1] Applicant stated that he enclosed a check in the amount of $1,605.00 with the present petition to cover the cost of this petition and the additional claim fee charge; however, the Office received only $400.00. The Office notes that the period set forth in the Notice of Omitted Items continues to run. **Therefore, applicant must pay the amount of $1,205.00 for the additional claim fees with the appropriate extension of time fees to avoid abandonment.**

The Office file is the official record of the papers originally filed in this application. A review of the official file reveals that the pages 2-6 of the specification were not located. 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. In the present case, the only evidence relied on to support applicant's allegation is the statement of Mr. Mirabel.

It is noted that declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollections or beliefs of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. The Office has a well-established and well-publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt, which itemizes and properly identifies the papers that are being filed, serves as prima facie evidence of receipt in the USPTO of all the items listed on the date stamped thereon by the Office. See MPEP 503.

Unfortunately, applicant did not submit a return, date-stamped postcard receipt to corroborate Mr. Mirabel's recall of the events of May 22, 2006. Accordingly, the petition is **dismissed**.

Any request for reconsideration should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of May 22, 2006, using only the pages of specification submitted on that date. Pages 2-6 of the specification submitted with the petition on June 26, 2006, will **not** be considered as part of the original disclosure **or** entered at this time. Additionally, this matter is referred to OIPE to await the payment of the additional claim fees as required by the Notice of Omitted Items mailed on June 16, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

In re Application of	:	
Valentine, et al.	:	
Application No. 11/438,543	:	ON PETITION
Filed: 22 May, 2006	:	
Attorney Docket No. 20060519.ORI	:	

This is a decision on the petition filed on 13 December, 2006, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the 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.

---

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record indicates:

- the instant application was filed on 22 May, 2006, without, *inter alia*, a fully executed oath/declaration;
- on 12 June, 2006 Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;
- on 13 December, 2006, Petitioner C.G. Mersereau (Reg. No. 26,205), filed, *inter alia*, the instant petition with an oath/declaration signed by co-inventors Hart and Chadwick on behalf of themselves and non-signing co-inventor Scott Valentine (Mr. Valentine) and Petitioner's statement as to the procedure followed, however, it appears from the statements and documents that the entire application–description, claims, abstract and drawings–were not transmitted to the non-signing inventor, nor is there a showing by Petitioner as to a diligent effort to ascertain a reasonably believed current and/or last known mailing address for the non-signing inventor Mr. Valentine, as required by statute, regulation and practice of the Office, and Petitioner must set forth that detail in and a copy of any transmittal letters with any future renewed petition filed herein the specifics of that transmittal.

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 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]

---

[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

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

---

(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]

> 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.[3])

CONCLUSION

As always, the Rule requires support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor to/at current/valid (or at least reasonably last-known/ascertainable) address. The evidence of these requirements (*inter alia*, a copy of the transmittal letter) should be submitted, of course, with any renewed petition–and Petitioner should review the Background section, above, to ensure that all matters raised therein have been addressed.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[4]

---

[3] See: MPEP 409.03(b).

[4] On July 15, 2005, the Central Facsimile (FAX) Number changed from (703) 872-9306 to (571) 273-8300. Old number(s) no longer are in service 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 .)

By mail: Commissioner for Patents[5]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

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[5] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE
SUITE 1800
SALT LAKE CITY, UT 84111

MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of Afa Kehaati Palu et al Application No. 11/438,553 Filed: May 22, 2006 Attorney Docket No. 10209.975	DECISION DISMISSING PETITIONS 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 1.78(a)(6), filed March 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to 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) 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 items (1) and (3).

It is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Specifically, the reference required by item (1) is deficient because: (1) application 11/360,550 does not claim benefit of application 10/285,359; (2) application 10/285,359 has no common inventor with application 60/335,343; (3) application 10/285,359 does not claim benefit of application 10/006,014; (4)

application 10/006,014 cannot be a CIP of later filed application 11/553,323 nor does application 10/006,014 claim such benefit; (5) application 11/553,323 does not claim benefit of application 10/993,883; (6) application 60/335,313 does not have a common inventor with application 10/286,167; and (7) application 10/286,167 does not claim benefit of application 10/285,287.

In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. See MPEP 201.11 and 37 CFR § 1.78(a)(1).

Also, 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.

Any request for reconsideration of this decision on petition should be accompanied by a renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

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.

/dab/
David Bucci
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 05/04/2010

Applicant	: Brian D. Vezza	: DECISION ON REQUEST FOR
Patent Number	: 7620390	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Philip G. Meyers
Philip G. Meyers Law Office
Suite 302
1009 Long Prairie Road
Flower Mound TX 75022

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OFFICE OF PETITIONS

In re Application of

Wentworth, et al.

Application No. 11/438,568

Filed: May 22, 2006

Attorney Docket No. 117798-0360

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 14, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 12, 2008, after it was believed that a complete and proper response was received to the non-final Office action mailed February 11, 2008, which set a shortened statutory period for reply of three months from its mailing date. No response was believed to have been received and the application was abandoned. A Notice of Abandonment was mailed on September 15, 2008.

The instant petition maintains that the response to the non-final Office action was deposited with the United States Postal Service on August 11, 2008, along with a request for extension of time within the third month. The response containing a certificate of mailing under 37 CFR 1.8 dated August 11, 2008, is noted in the application file. It is also noted that a communication was mailed October 10, 2008, indicating that the abandonment of the application was in error and withdrawing the abandonment.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the maximum period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded to the Technology Center 3600, GAU 3654 for further processing.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 05/20/2010

Applicant	: Takeshi Sakai	: DECISION ON REQUEST FOR
Patent Number	: 7615906	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 05/04/2010

Applicant	: William Joseph Antel JR.	: DECISION ON REQUEST FOR
Patent Number	: 7633066	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **657** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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DEC 19 2008
OFFICE OF PETITIONS

In re Application of :
Carl L.C. Kah, Jr. :
Application No. 11/438,618 :
Filed: May 22, 2006 :
Attorney Docket No. P/3426-145 :
For: CASSEGRAIN OPTICAL CONFIGURATION TO EXPAND HIGH INTENSITY LED FLASHLIGHT TO LARGER DIAMETER LOWER INTENSITY BEAM

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed November 5, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed March 24, 2008, which set forth an extendable three (3) month period for reply. A Notice of Abandonment was mailed on October 6, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely filed on September 29, 2008 (certificate of mailing date September 24, 2008). The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on September 29, 2008. As the certificate of mailing date for the extension of time and the amendment was September 24, 2008, they were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the October 6, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2875 for consideration of the amendment filed on September 29, 2008 (certificate of mailing date September 24, 2008).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

OIPE IAP55
SEP 2 9 2008
PATENT & TRADEMARK OFFICE

IFW

P/3426-145

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Carl L.C. KAH, Jr.

Serial No.: 11/438,618

Filed: May 22, 2006

Confirmation No.: 3655

Date: September 24, 2008

Group Art Unit: 2875

Examiner: Anabel Ton

For: **CASSEGRAIN OPTICAL CONFIGURATION TO EXPAND HIGH INTENSITY LED FLASHLIGHT TO LARGER DIAMETER LOWER INTENSITY BEAM**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION AND FEE FOR AUTOMATIC EXTENSION OF TIME
UNDER 37 CFR 1.17, 1.136(a) AND 35 USC 41(a)8

Sir:

Applicant(s) hereby petition(s) the Commissioner for Patents to extend the time for filing a response to the outstanding Office Action by 3 months. Payment in the amount of $525.00 should be charged to our Deposit Account No. 15-0700 for the petition fee in accordance with 37 CFR 1.17 computed as:

✔ Response within third month
✔ small entity ($525)

You are authorized to charge to our Deposit Account No. 15-0700 any additional amounts owing.

If this petition is inadequate to avoid abandonment, the Commissioner for Patents is petitioned, under 37 C.F.R. §1.136(a), to extend the time by the number of months which will avoid abandonment under 37 C.F.R. §1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

12/19/2008 LDIEP1 [illegible] 150700 11438618
09/29/2008 EAREGAY1 [illegible] 150700 11438618
01 FC:2253 525.00 DA
01 FC:2253 525.00 DA

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HONEYWELL/UOP
PATENT SERVICES
101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: Mark VanWees	: DECISION ON REQUEST FOR
Patent Number	: 7575670	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **467** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Application of
Larry J. Winget, et al.
Application No. 11/438,631
Filed: May 22, 2006
Attorney Docket No. 15128-000005/US/COV

ON PETITION

This is a decision in response to the petition, filed January 23, 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, June 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 28, 2007. A Notice of Abandonment was mailed on January 7, 2008. On January 23, 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) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1791 for consideration of the amendment filed January 23, 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Carl L.C. Kah JR.	: DECISION ON REQUEST FOR
Patent Number	: 7600699	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

COPY MAILED
DEC 05 2007
OFFICE OF PETITIONS

In re Application of	:	
Smits et al.	:	
Application No. 11/438,638	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. 21.1131CNT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

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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Frederick Gotha
Suite 823
80 South Lake Avenue
Pasadena CA 91101

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DEC 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Kenneth Casebier	:	
Application No. 11/438,643	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1389	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed August 14, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant invention is directed to a water purification system using plants for bioremediation of runoff water. The use of plants in bioremediation of water is known in the art. That the instant invention is applicable to such bioremediation of storm water runoff does not in itself satisfy the materiality standard, i.e., the petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the maintenance of the basic life-sustaining natural elements. As a result, no such 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
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 Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1724 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

MAILED

JAN 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,369,003	:	ON PETITION
Issue Date: May 6, 2008	:	
Application No. 11/438,653	:	
Filed: May 22, 2006	:	
Attorney Docket No. 209.002/-D1	:	

This is a decision on the Request for Certificate of Correction filed November 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to 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.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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DEC 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Shachar et al.	:	
Application No. 11/438674	:	DECISION GRANTING
Filing or 371(c) Date: 05/22/2006	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
SYSTEMS AND METHODS FOR	:	
ANALYZING RELATIONSHIPS	:	
BETWEEN ENTITIES	:	

This is in response to the Petition Under 37 CFR 1.47(a), 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 **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, Simon Brajtman, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. SIMON BRAJTMAN
66 BROADWAY AVENUE
ONTARIO M4P 1T6
CANADA

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Shachar et al.	:	
Application No. 11/438674	:	LETTER
Filing or 371(c) Date: 05/22/2006	:	
Title of Invention:	:	
SYSTEMS AND METHODS FOR	:	
ANALYZING RELATIONSHIPS	:	
BETWEEN ENTITIES	:	

Dear Mr. Brajtman:

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. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Randell L. WERNETH, et al	:	
Application No. 11/438,678	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. 10228-704.200 AFI-024-PA	:	FROM RECORD
	:	

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 17, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 James R. Shay on.behalf of the attorneys of record associated with Customer Number 66854.

The attorneys of record associated with Customer Number 66854 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RANDELL L. WERNETH
3868 ARVERNE ST.
SAN DIEGO, CA 92111

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11TH FLOOR
ARLINGTON VA 22203

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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:
Norio Sugiura	: DECISION REFUSING STATUS
Application No. 11/438,697	: UNDER 37 C.F.R. § 1.47
Filed: May 23, 2006	:
Attorney Docket No. 4825-14	:

This is a decision on the "PETITION BY PERSON HAVING PROPRIETARY INTEREST TO FILE APPLICATION ON BEHALF OF INVENTOR(S) WHO REFUSE TO SIGN OR CANNOT BE FOUND" filed January 12, 2007.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 23, 2006, without an executed oath or declaration. Accordingly, on June 13, 2006, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. (In addition, the statutory basic filing fee and search and examination fees were due). This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed a declaration executed by Shigeo Terashima on behalf of non-signing inventor Norio Sugiura; the surcharge under § 1.16(l); and the instant petition under § 1.47(a)(and fee)(and the missing fees). This response was made timely by a petition for extension of time within the fifth month (and extension fee). Applicants assert that status under § 1.47(a) is proper because inventor Sugiura refuses to join in the application or cannot be found.

§1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

Requirements (2), (4) and (5) have been satisfied. The required petition fee of $200 has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of the non-signing inventor. The person signing the declaration on behalf of the non-signing inventor has stated his relationship to the inventor.

However, the petition is not grantable because it does not satisfy requirements (1), (3), (6) and (7). The declaration is not in compliance with 37 CFR 1.163 as it does not identify the application to which it is directed and does not include the mailing addresses (and if appropriate the residences) of all of the inventors. Specifically, the specification to which the oath or declaration is directed has not been adequately identified. Petitioner has not met the minimum requirements for information supplied in an oath or declaration filed after the filing date of the application to comply with the identification requirement of 37 CFR 1.63. See MPEP § 602. The declaration does not include the residence and/or mailing addresses of the inventors 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location, which is different from where the inventor customarily receives mail, of each inventor. The mailing address is where the inventor customarily receives mail. The declaration appears in error to identify the inventor's mailing addresses as that of FUJITSU.

The petition includes proof that inventor Sugiura has not responded to requests to sign the declaration after having been presented with all of the application papers by mailing on June 9, 2006. However, given the deficiencies in the declaration noted above, the inventors' failure to respond cannot be inferred as a refusal to join in the application. The inventor may have not responded because of the deficiencies in the declaration.

Petitioner has not made out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention. Petitioner states that the invention was conceived while the inventor was employed.

However, petitioner does not submit a copy of the employment agreement requiring the inventor to sign the assignment or an executed assignment. Petitioner has not otherwise established proprietary interest.

Finally, petitioner has not proved by stating such that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

On renewed petition, a supplemental declaration including this information for all of the inventors is required. An adequate showing of refusal to join must include evidence of express refusal to join in this application, or that the non-signing inventor was presented with a declaration in compliance with 1.63 and by his conduct in not responding refused to join in the application. (A proper response is also a §1.63 declaration executed by the inventor.) In addition, a showing of proprietary interest and irreparable harm is necessary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ARLINGTON VA 22203

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:
Norio Sugiura	: DECISION ACCORDING STATUS
Application No. 11/438,697	: UNDER 37 C.F.R. § 1.47
Filed: May 23, 2006	:
Attorney Docket No. 4825-14	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47" filed November 19, 2007.

The petition is **GRANTED**.

The above-identified application was filed on May 23, 2006, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed June 13, 2006, on January 12, 2007, applicant filed the initial petition. Accompanying the petition was a declaration executed by Shigeo Terashima on behalf of non-signing inventor Norio Sugiura. Rule 47(b) applicant asserted that status under § 1.47 is proper because inventor Sugiura refuses to join in the application or cannot be found. By decision mailed April 19, 2007, the petition was dismissed.

§1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for

> patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

Requirements (2), (4) and (5) were satisfied. The petition was dismissed because requirements (1), (3), (6) and (7) were not met. Applicant was required to submit: A declaration identifying the application and including the required information for the inventor. An adequate showing of refusal to join including evidence of express refusal to join in this application, or that the non-signing inventor was presented with a declaration in compliance with 1.63 and by his conduct in not responding refused to join in the application. (A proper response is also a §1.63 declaration executed by the inventor.) A showing of proprietary interest and irreparable harm is necessary.

The instant renewed petition was made timely by an accompanying petition and fee for extension of time for response within the fifth month. The renewed petition and declaration have been reviewed and found to satisfy all requirements above. The

declaration is signed by Makota Ohashi as authorized representative of the assignee company, and is in compliance with the requirements set forth in (1) and (2) above. The supporting declaration of facts shows that inventor Norio Sugiura has refused to join in the application, by his conduct in not responding, after having been presented with the application papers. Petitioner includes a legal memorandum supporting a conclusion that applicant has proprietary interest in the application. (It is noted that no assignment has been made of record). Finally, a further review of the petitions filed reveals that rule 47(b) applicant stated on initial petition that the filing of the application is necessary to preserve the rights of the assignee.

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.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MR. NORIO SUGIURA
2-15-16,
Tomizawa,
Taihaku-ku
Sendai-shi
Miyagi
982-0032
JAPAN

COPY MAILED

JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Norio Sugiura	:	
Application No. 11/438,697	:	LETTER
Filed: May 23, 2006	:	
Attorney Docket No. 4825-14	:	

Dear Mr. Sugiura:

You are named as 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), 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 Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON VA 22203

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of
Bernd Hintze, et al.
Application No. 11/438,700
Filed: May 23, 2006
Attorney Docket No. 543822023500

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 16, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BERND HINTZE
HAUPTSTRASSE 44A
LANGEBRUECK, 01465 GERMANY

cc: GERO G. MCCLELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Kenji Wada	:	
Application No. 11/438,728	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q95046	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 13, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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PO BOX 625005
LITTLETON, CO 80162-5005

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MAR 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Lester M. Aseere :
Application No. 11/438,732 : ON PETITION
Filed: May 22, 2006 :
Attorney Docket No. 7387 :

This is a decision in response to the petition, filed December 1, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 7, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on November 26, 2008. In response, on December 1, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received December 1, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JJGJR.: 12-07

Paper No: __

ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

COPY MAILED

DEC 28 2007

OFFICE OF PETITIONS

In re Application of
Li, et al. :
Application No. 11/438,740 : DECISION ON PETITION
Filed: 22 May, 2006 :
Attorney Docket No. EMAP-DIV2 :

This is a decision on the petition filed on 29 June, 2006, and considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

The instant application was deposited on 22 May, 2006

On 19 June, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers and included therein Notice of Omitted Items—to wit: "pages 10, 61, 80-84 of the specification"—thus, the application had been accorded a filing date without those pages.

OIPE indicated that Petitioner might:

- contend via petition that pages 10, 61, 80-84 of the specification had been submitted on deposit and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification; or

- submit pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings if required) and accept the date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 29 June, 2006, Petitioner submitted the instant petition, including therewith, *inter alia*, what is averred to be a true copy of the specification and an averment of deposit of that application with the pages in question, however, as of this writing Petitioner appears neither to aver that he provides nor to provide a date-stamped receipt card, and thus Petitioner has no independent evidence from the Office listing and acknowledging thereon the papers as received by the Office on deposit.

ANALYSIS

A search of the official file reveals that:

- on 22 May, 2006, Petitioner deposited the instant application;

- the Office record reflects that pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings) were missing upon deposit.

Because Petitioner provides no receipt card adequately reflecting the contents of the application, **it is concluded that pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings if required), were not received by the Office on deposit of the application and thus are not due a 22 May, 2006, filing date**. Petitioner may accept the application as deposited or request a the later filing date (that of the submission of the pages in question).

Accordingly, pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings) are not entitled to a filing date of 22 May, 2006.

The Notice mailed on 19 June, 2006, was properly sent and will not be disturbed.

CONCLUSION

The petition is **dismissed**; the petition fee will not be refunded because there is no indication as of this writing of error on the part of the Office.

This application is released to OIPE for further processing with a filing date of 22 May, 2006, without pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings); and further with direction to OIPE to ensure that Office records are consistent with this decision and provide to Petitioner, if necessary, an updated filing receipt also consistent with this decision.

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] 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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JJGJR.:12-07

Paper No: __

ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of
Li, et al. :
Application No. 11/438,741 : DECISION ON PETITION
Filed: 22 May, 2006 :
Attorney Docket No. EMAP-DIV3 :

This is a decision on the petition filed on 20 July, 2006, and considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

The instant application was deposited on 22 May, 2006

On 14 July, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers and included therein Notice of Omitted Items—to wit: "pages 10, 61, 80-84 of the specification"—thus, the application had been accorded a filing date without those pages.

OIPE indicated that Petitioner might:

- contend via petition that pages 10, 61, 80-84 of the specification had been submitted on deposit and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification; or

- submit pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings if required) and accept the date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 20 July, 2006, Petitioner submitted the instant petition, including therewith, *inter alia*, what is averred to be a true copy of the specification and an averment of deposit of that application with the pages in question, however, as of this writing Petitioner appears neither to aver that he provides nor to provide a date-stamped receipt card, and thus Petitioner has no independent evidence from the Office listing and acknowledging thereon the papers as received by the Office on deposit.

ANALYSIS

A search of the official file reveals that:

- on 22 May, 2006, Petitioner deposited the instant application;

- the Office record reflects that pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings) were missing upon deposit.

Because Petitioner provides no receipt card adequately reflecting the contents of the application, **it is concluded that pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings if required), were not received by the Office on deposit of the application and thus are not due a 22 May, 2006, filing date**. Petitioner may accept the application as deposited or request a the later filing date (that of the submission of the pages in question).

Accordingly, pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings) are not entitled to a filing date of 22 May, 2006.

The Notice mailed on 14 July, 2006, was properly sent and will not be disturbed.

CONCLUSION

The petition is **dismissed**; the petition fee will not be refunded because there is no indication as of this writing of error on the part of the Office.

This application is released to OIPE for further processing with a filing date of 22 May, 2006, without pages 10, 61, 80-84 of the specification (description, claims, abstract, and drawings); and further with direction to OIPE to ensure that Office records are consistent with this decision and provide to Petitioner, if necessary, an updated filing receipt also consistent with this decision.

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of	:
Gallant et al.	:
Application No. 11/438,745	: DECISION ON PETITION
Filed: 22 May, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 05918-173002	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 21 November, 2006, 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 on 22 May, 2006.

The petition is **GRANTED**.

The above-identified application is a reissue of Application No. 10/154,539 filed on 24 May, 2002, which matured into U.S. Patent No. 6,930,277 on 16 August, 2005. Petitioners state that the instant reissue application was filed because they verily believe the original patent to be wholly or partially invalid by reason of a defective specification or drawing and by reason of other errors (*i.e.*, the failure to timely make the claim for the benefit of priority which is the subject of the instant petition).

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 Senior Petition Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1722 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.

Nancy Johnson

Nancy Johnson
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
11/438,745	05/22/2006	1722	1530	05918-173002	19	1

CONFIRMATION NO. 3407

CORRECTED FILING RECEIPT

OC000000023671861

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/03/2007

Receipt is acknowledged of this reissue Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Christopher M. Gallant, Nottingham, NH;
Stephen C. Jens, Waltham, MA;
Andrew C. Harvey, Waltham, MA;
Richard M. Formato, Grafton, MA;

Power of Attorney: The patent practitioners associated with Customer Number **26161**.

Domestic Priority data as claimed by applicant

This application is a REI of 10/154,539 05/24/2002 PAT 6,930,277
which is a CIP of 09/341,908 05/08/2002 PAT 6,533,981
which is a 371 of PCT/US98/01053 01/20/1998
which is a CIP of 08/926,517 09/10/1997 PAT 6,039,556
which is a CIP of 08/786,226 01/21/1997 PAT 5,971,738

Foreign Applications .

If Required, Foreign Filing License Granted: 06/14/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/438,745

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Fastener element molding

Preliminary Class

264

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 04/21/2010

Applicant	: Andrew P. McMahon	: DECISION ON REQUEST FOR
Patent Number	: 7585671	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

MAY 24 2010

In re Application of	:	
HIROKI KOYAMA et al.	:	
Application No.: 11/438,760	:	DECISION ON
Filing or 371(c) Date: MAY 5, 2006	:	PETITION
Attorney Docket Number: OIC2-PTOO5	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) April 16, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed October 16 , 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 3, 2010.

On December 4, 2009, Applicant filed a "Communication Requesting That the Previously Submitted Issue Fee Be Applied," along with an executed copy of the PTOL 85 Form.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn.

The previously paid issue fee will be re-applied to the new NOA and the application will be restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1567.

Diane Terry

Diane Terry
Quality Control Specialist.
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 900
MCLEAN VA 22102

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APR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Ryan A. WERBER, et al	:	
Application No. 11/438,761	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 024148.0106PTUS	:	FROM RECORD
	:	

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, 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 Michele V. Frank on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: NET-CONEX, INC.
108 3605 GILMORE WAY
BUMABY, BC CANADA, V5G 4X5

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OFFICE OF PETITIONS

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P. O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of Richard A. Sallee Application No. 11/438,762 Filed: May 23, 2006 Attorney Docket No. 15825-199002/MS-04-003	: DECISION GRANTING PETITION : UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 21, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 10, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2855 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\May10\438762.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
Dallas, TX 75381-9052

Mail Date: 04/21/2010

Applicant	: Cyrus A. Irani	: DECISION ON REQUEST FOR
Patent Number	: 7596995	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **261** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON, WI 53701-2113

Mail Date: 04/26/2010

Applicant	: Susan A. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7633501	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **581** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
LEFTON, Norman	:	
Application No. 11/438,804	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. **56620/L506**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 29, 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 Daniel R. Kimbell, Constantine Marantidis and John D. Carpenter 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 Norman Lefton 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: **NORMAN LEFTON**
1140 BROOKLAWN DRIVE
LOS ANGELES, CA 90077

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WILLIAM C. FUESS
10951 SORRENTO VALLEY ROAD
SUITE 2G
SAN DIEGO CA 92121-1613

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Norman Lefton	:	
Application No. 11/438,804	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. 56620/L506	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed July 25, 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 3715 for appropriate action by the Examiner in the normal course of business on the reply received June 19, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JAN 03 2008

OFFICE OF PETITIONS

ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

In re Application of	:
Dawson	: DECISION ON PETITION
Application No. 11/438,827	:
Filed: May 23, 2006	:
Docket No.: 16706	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 10, 2007.

This application was held abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed July 6, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed October 30, 2007.

Petitioner asserts that a response to the Notice was timely submitted and has provided as proof of mailing and proof a copy of the reply purportedly submitted. The copy of the reply bears a certificate of mailing date of August 18, 2007, in accordance with 37 CFR 1.8.

The original response submitted August 18, 2007 has not been located in the application file. However, after careful consideration, the arguments and evidence submitted are found convincing.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Eric R. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7597168	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,828	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **538** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 07/06/2010

Applicant	: Frank Yang	: DECISION ON REQUEST FOR
Patent Number	: 7656109	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/438,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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	: Wenjie Li	: DECISION ON REQUEST FOR
Patent Number	: 7638264	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,842	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Patton Boggs, LLP
8484 West Park Drive
Suite 900
McLean, VA 22102

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Ryan A. Werber et al.	:	
Application No. 11/438,848	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 024148.0105PTUS	:	FROM RECORD
	:	

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, 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 Michele V. Frank 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: Net-coneX, Inc.
108 3605 Gilmore Way
Burnaby, BC V5G 4X5
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
11/438,848	05/23/2006	Ryan A. Werber	024148.0105PTUS

CONFIRMATION NO. 5700

POWER OF ATTORNEY NOTICE

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000037580863

Date Mailed: 08/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2009.

- 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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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Ryan A. Werber, et al.	:	
Application No. 11/438,849	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 024148.0104PTUS	:	FROM RECORD
	:	

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, 2009 and resubmitted May 14, 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 practitioners were appointed by customer number. In order to withdraw, practitioners must request withdrawal in the same manner by which they were appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3208. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/KOC /
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

NET-CONEX, INC.
108 3605 GILMORE WAY
BURNABY BC V5G 4X5
CANADA.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCNAIR LAW FIRM, P.A.
P.O. BOX 10827
GREENVILLE SC 29603-0827

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In re Application of	:	
Lang et al.	:	
Application No. 11/438895	:	ON PETITION
Filing or 371(c) Date: 05/23/2006	:	
Attorney Docket Number:	:	
022946.00423	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed May 9, 2008.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 14, 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). Applicant filed a reply on September 24, 2007; however, the reply failed to place the application in condition for allowance. No complete and proper reply having been filed, the, the date of abandonment of this application is December 15, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed[1].

The Appeal Brief was filed on June 25, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The application is being referred to Technology Center Art Unit 2872 to for processing of the brief in support of appea, filed June 25, 2008.

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

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HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

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OFFICE OF PETITIONS

In re Application of	:	
Skurkovich, et al.	:	
Application No. 11/438,896	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0094.0002US1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed august 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes declaration statement. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3644 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN PA 19355-1481

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APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Rominder P.S. Suri et al.	:	
Application No. 11/438,920	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 185308-3001	:	FROM RECORD

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 3, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 R. Casey on behalf of all attorneys/agents associated with customer number 50787. All attorneys/agents associated with customer number 50787 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: Rominder P.S. Suri
2527 Condor Drive
Audubon, PA 19403

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/438,920	05/23/2006	Rominder P.S. Suri	185308-3001

CONFIRMATION NO. 4684

POWER OF ATTORNEY NOTICE

50787
STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN, PA 19355-1481

OC000000041260734

Date Mailed: 04/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/03/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary NC 27518

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JUL 02 2010
OFFICE OF PETITIONS

In re Application of :
Molnar, et al. :
Application No. 11/438,921 : ON APPLICATION FOR
Filed: May 23, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. **4015-5375/ P21296-US1**

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT, filed April 5, 2010. The petition is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred and seventeen (917) days, not six hundred and seventy-three (673) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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Lisa A. Haile, J.D., Ph.D.
DLA PIPER RUDNICK GRAY CARY US LLP
Suite 1100
4365 Executive Drive
San Diego CA 92121-2133

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DEC 1 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Beachy et al.	:	
Application No. 11/438,933	:	RESPONSE TO PETITION
Filed: May 22, 2006	:	
Attorney Docket No. JHU1510-3	:	

This is a response to the petition, filed September 23, 2009, which is treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

On September 22, 2009, an Amendment and Response to a Final Office Action was filed in the above-identified application. The amendment was intended for U.S. Application No. 10/976,932 but was matched with the above identified application. Petitioner now requests that this amendment be removed from the file of the above identified application.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure, may be expunged from an application. Since the Office can determine the correct application file for which the erroneously filed papers were intended from the other identifying information on the papers, the papers will be removed as requested.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the amendment filed September 22, 2009 in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

In regard to the requested refund of the one month extension of time, $65.00 was charged by mistake to the above identified application in association with the amendment. Accordingly $65.00 will be refunded to Deposit Account 07-1896.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Michelle Mark	: DECISION ON REQUEST FOR
Patent Number	: 7650996	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **584** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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: 04/21/2010

Applicant	: Sungmin Huh	: DECISION ON REQUEST FOR
Patent Number	: 7629087	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/438,965	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **559** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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JUL 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Ozaki, et al.	:	
Application No. 11/438,967	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 06331/LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 22, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Dave Bonshor	: DECISION ON REQUEST FOR
Patent Number	: 7644547	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **676** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON TX 77002

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MAR 0 2 2010

OFFICE OF PETITIONS

In re Application of	:	
Carl L. HAMMONDS	:	
Application No. 11/439,046	:	DECISION ON PETITION
Filed: May 23, 2006	:	
Attorney Docket No. **164902/HTS036CIP**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 03, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of April 16, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3611 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Roger Fulghum
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

Mail Date: 06/02/2010

Applicant	: Stephen G. Luning	: DECISION ON REQUEST FOR
Patent Number	: 7653782	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/439,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/439,053	05/23/2006	William H. Lycette	10060102-01	5357

7590 12/11/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER
MANSFIELD, THOMAS L

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
12/11/2009	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: 12/10/2009 NFARMER
05/25/2006 RGUTERAI 00000059 501678 11439053
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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In re Application of	:	
Kimlong HUYNH et al.	:	
Application No. 11/439,065	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. **LITE01-CIP**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before July 01, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 01, 2008. Accordingly, the date of abandonment of this application is July 02, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; 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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Application No. : 11/439,065
Filed : May 22,2006
For : LIGHT EMITTING DIODE MULTIPHASE DRIVER CIRCUIT AND METHOD

Examiner : VO, TUYET THI
Art Unit : 2821

Certificate of Mailing
I hereby certify that this petition and all marked attachments are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box, Mail Stop Petitions, Alexandria, VA 22313-1450, or being facsimile transmitted to the USPTO at fax No. 571-273-8300, on
July 14, 2008
(Date)
Jiawei Huang Reg. No. 43,330

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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 extension 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 patent applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unintentional delay.

1. Petition fee
(X) Small entity - fee $770 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

() Other than small entity - fee $1,540 (37 CFR 1.17(m)).

2. Reply and/or fee

07/21/2008 HMARZI2 00000002 500710 11439065
01 FC:2453 770.00 DA

PAGE 1/3 * RCVD AT 7/14/2008 7:15:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2738300 * CSID:949 6600809 * DURATION (mm-ss):01-40

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JUL 14 2008

A. The reply and/or fee to the above-noted Office Action in the form of Amendment:
() has been filed previously on _____.
() is enclosed herewith.

B. The issue/publication fee of $ 1020
() has been paid previously on _____
(X) is enclosed herewith.

3. Terminal disclaimer with disclaimer fee
(X) 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 $55 for a small entity or $110 for other than a small entity) disclaiming a period equivalent to the period of abandonment 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.

Date: 7-14-2008

Jiawei Huang
Registration No. 43,330

Telephone Number: (949) 660-0761
Facsimile Number: (949) 660-0809

Enclosures:

(X) Fee Payment
(X) Fee(s) Transmittal (PTOL-85)
( ) Additional sheets containing statements establishing unintentional delay

(X) The Commissioner is authorized to charge the petition fee ($770), the issue fee and publication fee ($1020), and any other required fee in connection with the filing of this petition to account No. 50-0710 (Order No. LITE01-CIP).

PAGE 2/3 * RCVD AT 7/14/2008 7:15:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2738300 * CSID:949 6600809 * DURATION (mm-ss):01-40

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In re Application of
Franklin Thomas Driver

Application No. 11439089

Filed: May 23,2006

Attorney Docket No. ITI-422A (86080.015719)

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 23-JUL-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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McCarter & English, LLP Stamford
Canterbury Green
201 Broad Street, 9th Floor
Stamford, CT 06901

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Franklin Thomas Driver et al.	:	
Application No. 11/439,089	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. ITI-422A (118001.15719)	:	FROM RECORD

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 1, 2010.

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 McCarter & English, LLP Stamford and all attorneys/agents associated with customer number 72535 have been revoked by the assignee of the patent application on January 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed 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: Senniger Powers, LLP
100 North Broadway
17th Floor
St. Louis, MO 63102

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Kume	:	
Application No. 11/439,137	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. 025311-0125	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June20, 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 William T. Ellis on behalf of all attorneys of record who are associated with customer No. 22428.

All attorneys/agents associated with the Customer Number 22428 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 Satoshi Kume at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Satoshi Kume
c/o Semiconductor Leading Edge Technologies, Inc.
292 Yoshida-cho, Totsuka-ku
Yokohama, Kanagawa 244-0817
JAPAN

cc: Gregory J. Maler
Oblon, Spivak McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

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DEC 06 2007

OFFICE OF PETITIONS

Applicant: Dodge et al.
Appl. No.: 11/439,141
Filing Date: May 24, 2006
Title: ELECTRICAL CURRENT INDUCED INHIBITION OF BONE GROWTH
Attorney Docket No.: 2019659-5248C1
Pub. No.: US 2006/0212088 A1
Pub. Date: September 21, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 21, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the drawing on the front page is to another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein a wrong drawing was published on the front page of the publication may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error does not affect the understanding of the application because the correct figures were published in the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error is also not a material mistake because the application is a Continuation of U.S. Application No. 10/716,862, which is both patented and published as a pre-grant publication, and which is incorporated by reference. Since, the parent application is now patented and published, and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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4/14/09

Patent No. :7308365
Ser. No. : 11439161
Inventor(s) :FIORITO, FRANCESCO
Issued : 12/11/07
Title : AUTOMATED PROJECTION SPECTROSCOPY (APSY)
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l 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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

KOHLER SCHMID MOEBUS
RUPPMANNSTRASSE 27
D-70565 Stuttgart, Germany

HR

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KOHLER SCHMID MOEBUS
RUPPMANNSTRASSE 27
D-70565 STUTTGART DE GERMANY

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JAN 20 2010

In re Patent No. **7,308,365**	:	
Issue Date: December 11, 2007	:	
Application No. 11/439,161	:	DECISION ON PETITION
Filed: May 24, 2006	:	UNDER 37 CFR 1.181
Attorney Docket No. **P8700US**	:	

This is a decision on the petition, filed May 14, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee).

Petitioner asserts that on February 8, 2008 the applicant submitted a copy of the PTO-85B (previously submitted August 31, 2007) and a request for a certificate of correction under 37 CFR 1.322, requesting correction of the missing assignee and stating that the correction was necessitated by a USPTO error.

A review of the written record indicates on April 14, 2008 the USPTO issued a denial of the request for certificate of correction stating that the request was not due to Office error rather to an applicant error, indicating the applicant failed to include the name of the assignee on the PTO-85B form.

The applicant has submitted a copy of the PTO-85B originally submitted along with the request for issue fee payment which in fact indicated the assignee in the appropriate location.

In view of the above, the petition is hereby **GRANTED**.

Telephone inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 1.181 and directing issuance of the requested Certificate of Correction.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/439,191	05/24/2006	Hye-jin Lee	0005.1097

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

DATE MAILED: June 18, 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 May 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,210	05/24/2006	Tatsuhiro Ando	5248-023-US01	4238

7590 08/13/2008
HANIFY & KING PROFESSIONAL CORPORATION
1875 K STREET, NW
SUITE 707
WASHINGTON, DC 20006

EXAMINER
TROST IV, WILLIAM GEORGE

ART UNIT	PAPER NUMBER
2616	

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

Adjustment date: 08/13/2008 BPOWELL
05/25/2006 HTECKLU1 00000039 195127 11439210
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OFFICE OF PETITIONS

In re Application of	:	
Shizu Ishikawa et al	:	
Application No. 11/439,268	:	DECISION ON PETITION
Filed: May 24, 2006	:	
Attorney Docket No. 500.46219X00	:	

This is a decision on the petition filed December 17, 2008, entitled "REQUEST TO WITHDRAW PREVIOUSLY FILED PETITION," which is being treated as a petition under 37 CFR 1.182 to withdraw the petition filed December 16, 2008, under 37 CFR 1.313(c)(2).

The petition under 37 CFR 1.182 is **GRANTED.**

The petition under 37 CFR 1.313(c)(2) is **DISMISSED** as moot.

The petition under 37 CFR 1.313(c)(2) is dismissed as moot in view of the petition filed December 17, 2008, to withdraw and not consider the petition filed December 16, 2008 under 37 CFR 1.313(c)(2).

Since the petition and Request for Continued Examination (RCE) submitted on December 16, 2008 will not be considered, the fee totaling $540 is being refunded to petitioner's credit card account. The petition fee of $400 for the petition submitted on December 17, 2008, under 37 CFR 1.182 is being deducted from the $940 submitted on December 16, 2008.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Law Offices of Daniel L. Dawes
5200 Warner Boulevard, Ste. 106
Huntington Beach, CA 92649

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OFFICE OF PETITIONS

In re Application of	:	
Axel Scherer et al.	:	
Application No. 11/439,288	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. CITI.PAU.61	:	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 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. 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 Joseph C. Andreas, on behalf of all attorneys/agents associated with customer number 23386. All attorneys/agents associated with customer number 23386 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed to that of the first signing inventor and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Axel Scherer
1900 Catalina Street
Laguna Beach, CA 92651

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
11/439,288	05/22/2006	Axel Scherer	CIT1.PAU.61

CONFIRMATION NO. 4363

POWER OF ATTORNEY NOTICE

79782
Law Offices of Daniel L. Dawes
5200 Warner Blvd, Ste. 106
Huntington Beach, CA 92649

OC000000032516028

Date Mailed: 10/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/02/2008.

- 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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L. JOSEPH UNDERWOOD
WILLIAMS & ANDERSON, PLC
111 CENTER STREET, 22ND FLOOR
LITTLE ROCK, AR 72201

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MAR 31 2008

In re Application of	:	
LUMPKIN, Charles K. Jr.	:	
Application No. 11/439,294	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. **5339.10293US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **WILLIAMS & ANDERSON, PLC** has been revoked by the assignee of the patent application on December 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **POLSINELLI SHALTON FLANIGAN SUELTHAUS, PC**
700 W. 47TH STREET, SUITE 1000
KANSAS CITY, MO 64112-1802

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7/30/07

CISLO & THOMAS LLP
233 WILSHIRE BOULEVARD, SUITE 900
SANTA MONICA, CALIFORNIA 90401-1211

In re Application of: Bayat, Ardeshir Serial No.: 11/439,316 Filed: May 22, 2006 Docket: 06-16297 Title: DISPOSABLE EXPANDABLE CORDLESS LIGHTED RETRACTOR	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 June 14, 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 **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee paid on June 16, 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 600, Subclasses 201, 212, 214, 215, 223, 224, 235, and 245; d) a list of the references uncovered by the performed search 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.

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 (e) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (d). Regarding the requirement of MPEP § 708.02(VIII)(d), the applicant must submit 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. The present petition to make special under 37 CFR

§1.102 states that a copy of the foreign reference WO 2004/077922 was previously submitted with the application. However, a copy of the foreign reference WO 2004/077922 has not been filed. Therefore, the reference is not on record and the petition is not in compliance with MPEP §708.02(VIII)(d).

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include a copy of foreign reference WO 2004/077922.

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 3732 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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THOMAS R. LAMPE
BIELEN, LAMPE & THOEMING
1390 WILLOW PASS ROAD, SUITE 1020
CONCORD CA 94520

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Benetti	:	
Application No. 11/439,327	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BENETTI #7	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 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 declaration statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1725 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of
LO, Po-Yuan et al.
Application No. 11/439,345
Filed: May 24, 2006
Attorney Docket No. **TAIW 899**

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 21, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to HARNESS, DICKEY & PIERCE, P.L.C. has been revoked by the assignee of the patent application on February 13, 2008 and resubmitted on April 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RABIN & BERDO, PC**
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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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	:	
Michael A. Colicos et al.	:	
Application No. 11/439,377	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. 19040-003001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Richard G.A. Bone on behalf of all attorneys of record who are associated with Customer No. 26181.

All attorneys/agents associated with the Customer No. 26181 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee Neurosilicon/MeBraSys at the address indicated in the request.

There is no an outstanding Office action, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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In re Application of	:
Thomas Maciag, et al.	:
Application No. 11/439,397	: DECISION ON PETITION
Filed: May 22, 2006	: UNDER 37 CFR 1.78 (a)(3) AND (a)(6)
Attorney Docket No. 53689-5013-01-US	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(2) and 1.78(a)(5), filed July 7, 2008, that is properly treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed International Application No. PCT/US02/27247, filed August 26, 2002, and under 35 U.S.C. §119(e) for benefit of priority to the prior-filed provisional application as set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

While a reference to the prior-filed International and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the Declaration filed May 22, 2006. Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] As the priority claim to the provisional application 60/314,837 was not recognized by the Office, the presently filed petition to accept a late claim for priority under 37 CFR §1.78(a)(6) to the '837 application is appropriate for consideration.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

A petition 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 expiration of the period specified in 37 CFR 1.78(a)(2) (ii) and 37 CFR 1.78 (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)(2) (ii) and 37 CFR 1.78 (5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on May 22, 2006 and seeks priority to the provisional application 60/314,837 via the non-provisional application 10/786,223 and the International Application PCT/US02/27247. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In regard to the claim of priority to the International application, the Office noted the claim for priority to the prior-filed International application in the declaration filed May 22, 2006, as shown by its inclusion under "Foreign Application Priority Data" in the Published application. However, the relationship of the prior-filed International application to the instant application is not set forth in the manner required by 37 CFR 1.78(a)(2)(i) in the amendment filed concurrently with the instant petition. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters as well as deletion of the incorporation by reference statement pertaining to the provisional and International applications, are required.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22313-1450

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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 Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Thomas Maciag, et al.	:
Application No. 11/439,397	: DECISION ON PETITION
Filed: May 22, 2006	: UNDER 37 CFR 1.78 (a)(3) AND (a)(6)
Attorney Docket No. 53689-5013-01-US	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), 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/US02/27247, filed August 26, 2002, and under 35 U.S.C. §119(e) for benefit of priority to the prior-filed provisional application as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

While a reference to the prior-filed International and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the Declaration filed May 22, 2006. Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] As the priority claim to the provisional application 60/314,837 was

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

not recognized by the Office, the presently filed petition to accept a late claim for priority under 37 CFR §1.78(a)(6) to the '837 application is appropriate for consideration.

A petition 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 expiration of the period specified in 37 CFR 1.78(a)(2) (ii) and 37 CFR 1.78 (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)(2) (ii) and 37 CFR 1.78 (5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on May 22, 2006 and seeks priority to the provisional application 60/314,837 via the non-provisional application 10/786,223 and the International Application PCT/US02/27247. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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 Ramesh Krishnamurthy at (571) 272-4914. 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 1647 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.

David Bucci
Petitions Examiner
Office of Petitions

Encl: 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
11/439,397	05/22/2006	1647	500	53689-5013-01-US	4	1

CONFIRMATION NO. 4368

CORRECTED FILING RECEIPT

23973
DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

OC000000034304598

Date Mailed: 01/30/2009

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)

Thomas Maciag, Portland, ME, Deceased;
Lorraine A. Maciag, South Freeport, ME, Legal Representative;
Anna Mandinova, Ipswich, MA;
Lazar Mandinov, Ipswich, MA;
Igor Prudovsky, Cape Elizabeth, ME;
Stephen Bellum, South Portland, ME;
Raffaella Soldi, Windham, ME;
Cinzia Bagala, Rome, ITALY;

Assignment For Published Patent Application

Maine Medical Center Research Institute

Power of Attorney: The patent practitioners associated with Customer Number 028977

Domestic Priority data as claimed by applicant

This application is a DIV of 10/786,223 02/23/2004 ABN
which is a CON of PCT/US02/27247 08/26/2002
which claims benefit of 60/314,837 08/24/2001

Foreign Applications

UNITED STATES OF AMERICA PCT/US02/27247 08/26/2002

If Required, Foreign Filing License Granted: 06/15/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/439,397**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Copper-dependent non-traditional pro-inflammatory cytokine export and methods, compositions and kits relating thereto

Preliminary Class

514

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Matier, et al.	:	
Application No. 11/439,404	:	DECISION ON PETITION
Filed: May 22, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. OTPH-0139	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 16, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application No. 10/440,583, as 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 provisional application 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). Here, while the incorporation by reference statement was present on filing with respect to provisional application No. 60/684,677, the statement was not present on filing with respect to application No. 10/440,583.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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OCT 22 2008
OFFICE OF PETITIONS

In re Application of Matier, et al. Application No. 11/439,404 Filed: May 22, 2006 Attorney Docket No. OTPH-0139	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 September 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application No. 10/440,583, as 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.

Applicants filed a petition under 37 CFR 1.78(a)(3) on May 16, 2008. However, the petition was dismissed in a decision mailed on August 25, 2008. The decision explained that the reference to was not acceptable as drafted since it improperly incorporated by reference prior filed application No. 10/440,583. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b). The decision noted that while the incorporation by reference statement was present on filing with respect to provisional application No. 60/684,677, the statement was not present on filing with respect to application No. 10/440,583.

With the instant renewed petition, petitioner has submitted a proper amendment, removing the incorporation by reference statement with respect to Application No. 10/440,583.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed 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 application, accompanies this decision on petition.

As the petition fee of $1,410 was previously paid with the petition filed on May 16, 2008, the $1,410 submitted with the instant petition has been refunded to Deposit Account No. 23-3050.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3761 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: 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
11/439,404	05/22/2006	1618	690	OTPH-0139	25	1

CONFIRMATION NO. 4377

CORRECTED FILING RECEIPT

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000032648271

Date Mailed: 10/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

William L. Matier, Hockessin, DE;
Ghanshyam Patil, Lincoln University, PA;

Assignment For Published Patent Application

Othera Pharmaceuticals, Inc., Exton, PA

Power of Attorney: The patent practitioners associated with Customer Number 23377

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/684,677 05/26/2005
and is a CIP of 10/440,583 05/19/2003 PAT 7,442,711
which claims benefit of 60/381,287 05/17/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/439,404**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Amelioration of vitrectomy-induced cataracts

Preliminary Class

514

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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Chang-jin Choi	: DECISION ON REQUEST FOR
Patent Number	: 7583929	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,407	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **594** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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: 04/21/2010

Applicant	: Norio Goko	: DECISION ON REQUEST FOR
Patent Number	: 7603767	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **488** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 15 2006

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Paul J. Harrison et al	:
Serial No.: 11/439,427	: PETITION TO MAKE SPECIAL
Filed: May 24, 2006	:
Attorney Docket No.: 2476.00700002	:

This is in response to applicants' petition filed August 22, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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RONALD D. TRICE
6412 BRANDON AVE.
 # 145
SPRINGFIELD, VA 22150

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OFFICE OF PETITIONS

In re Application of
LU, Zhijian
Application No. 11/439,437
Filed: May 24, 2006
Attorney Docket No. **PEK-003**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 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 Ronald D. Trice on behalf of all attorneys of record who are associated with customer No. 55300. 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 Zhijian Lu at the address indicated below.

There is an outstanding Office action mailed January 22, 2008 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: **ZHIJIAN LU**
23 MCELROY LANE
BELLE MEAD, NJ 08502

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Ali Isaac	: DECISION ON REQUEST FOR
Patent Number	: 7580680	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **548** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OFFICE OF PETITIONS

In re Application of	:	
Heinz Fissan et al	:	
Application No. 11/439,451	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3619.103US02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2881 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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STALLMAN & POLLOCK LLP
353 SACRAMENTO STREET
SUITE 2200
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of :
Richard S. Stack et al :
Application No. 11/439,461 : DECISION ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. BARO-910 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 13, 2006, which required the submission of an executed oath or declaration and a $65 surcharge for its late filing. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 15, 2006 (August 13, 2006, the due date, is a Sunday). A Notice of Abandonment was mailed on September 27, 2007, subsequent to the filing of the present petition to revive.

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 executed oath and $65 surcharge fee, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of June 13, 2006 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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SWANSON & BRATSCHUN, L.L.C
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH, CO 80129

In re Application of :
Rabinowitz, et al. : DECISION ON PETITION
Application No. 11/439,475 :
Filed: May 23, 2006 :
Atty. Dkt. No.: 00031.06CON :

This decision is in response to the petition under 37 CFR 1.10(c) filed September 18, 2006.

Petitioners allege that the application was deposited in Express Mail Service on May 23, 2006. However, the copy of the Express Mail receipt No. EV736121662US (the same Express Mail number found on the original application papers located in the official file) submitted herewith does not bear a "date in" of May 23, 2006 as required under 37 CFR 1.10(c). Nonetheless, the Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question. 37 CFR 1.10(f). Petitioners have presented additional evidence to establish that the application papers were indeed deposited on May 23, 2006, namely, a copy of a USPS Track & Confirm printout that indicates that the package in question was deposited when and as alleged.

In view thereof, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **May 23, 2006** and for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Steven K. Reinhardt	: DECISION ON REQUEST FOR
Patent Number	: 7587663	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Kannan DANASEKARAN, et al	:	
Application No. 11/439,487	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO WITHDRAW
Attorney Docket No. 20061-003001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fish & Richardson, PC, has been revoked by the assignee of the patent application on November 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STREAMLOAD, INC.
C/O STEVEN ROSS IVERSON
525 B STREET, SUITE 1000
SAN DIEGO, CA 92101

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PATENT CAPITAL GROUP
6119 MCCOMMAS BLVD.
DALLAS TX 75214

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OFFICE OF PETITIONS

In re Application of	:	
Erik De La Iglesia et al	:	
Application No. 11/439,488	:	DECISION ON PETITION
Filed: May 22, 2006	:	
Attorney Docket No. 006897.P025	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed May 14, 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 2166 for appropriate action by the Examiner in the normal course of business on the reply received March 12, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Jay S. Laefer	: DECISION ON REQUEST FOR
Patent Number	: 7634605	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **62** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Jay S. Laefer
Patent Number : 7634605
Issue Date : 12/15/2009
Application No : 11/439,494
Filed : 05/22/2006

: 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 **119** 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

RIDOUT & MAYBEE LLP
100 MURRAY STREET
4TH FLOOR
OTTAWA ON K1N OA1 CA CANADA

COPY MAILED

DEC 11 2009

OFFICE OF PETITIONS

In re Application of :
Benoit Nadeau-Dostie, et al. :
Patent No. 7,617,425 :
Application No. 11/439,497 :
Filed: May 24, 2006 :
Attorney Docket No. LVPAT085US

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

Our File: 45344-0003 DSL:RPL:kxm

IN THE UNITED STATES PATENT AND TRADEMARKS OFFICE

In The Matter of Patent Application:

Applicants	:	NADEAU-DOSTIE, Benoit, et al.
Serial No.	:	11/439,497
Filing Date	:	May 24, 2006
Title	:	METHOD FOR AT-SPEED TESTING OF MEMORY INTERFACE USING SCAN
Examiner	:	John P. Trimmings
Art Unit	:	2117

To: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
U.S.A.

Dear Sir:

We are the agents for the Applicant in the above-referenced matter.

The issue fee of $755.00 for utility patent application no. 11/439,497 due on October 2, 2009 was paid on October 2, 2009. It claimed small entity status on the basis of past fee payments and the status of our docketing system at the time. The small entity status claim was therefore made in good faith.

It has just come to our attention that the Applicant was no longer qualified to claim small entity status as of that date. Upon receipt of this information we have immediately and without delay prepared this submission under 37 C.F.R. 1.28(c).

12/15/2009 LDIEP1 00000004 132400 11439497
01 FC:1464 755.00 DB

The Commissioner is hereby authorized under 37 C.F.R. 1.28(c)(2) to deduct $755.00 from our Deposit Account No. 13-2400 for the total deficiency payment owed.

Itemization of the Deficiency Payment

Type of fee:	utility application issue fee [37 C.F.R. 1.18(a)]
Date paid:	October 2, 2009
Amount paid:	$755.00
Current amount owed as a non-small entity:	$1510.00
Deficiency for this fee:	$755.00
Total Deficiency payment owed:	**$755.00**

This submission operates as a notification of a loss of entitlement to small entity status under 37 C.F.R. 1.27(g)(2).

If any action is required to be taken to maintain this application in good standing, we request reinstatement of this application, an extension of time or that any other necessary action be taken and any related fee be charged to our Deposit Account No. 13-2400.

Respectfully Submitted,

NADEAU-DOSTIE, Benoit et al

By: _____

Dennis S. K. Leung, Regn. No.47325

Place: Ottawa, Ontario, Canada
Date: October 15, 2009
Telephone No.: 613-236-1995
Customer No. 37428
Ridout & Maybee LLP
100 Murray Street, 4th Floor
Ottawa, Ontario K1N 0A1
Canada

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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MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

Mail Date: 05/14/2010

Applicant	: Benoit Nadeau-Dostie	: DECISION ON REQUEST FOR
Patent Number	: 7617425	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/439,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Sandeep Gupta	: DECISION ON REQUEST FOR
Patent Number	: 7643895	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENSEY NASH CORPORATION
735 PENNSYLVANIA DRIVE
EXTON, PA 19341

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of
Mark Eberhart, et al.
Application No. 11/439,525
Filed: May 22, 2006
Attorney Docket No.: P0066.6

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 10, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 11, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 13, 2010. A Notice of Abandonment was mailed on April 26, 2010. On May 10, 2010, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Jeffrey R. Ramberg appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

Applicant: May et al.
Appl. No.: 11/439,528
Filing Date: May 22, 2006
Title: ANTI-INFLAMMATORY COMPOUNDS AND USES THEREOF
Attorney Docket No.: YAI-002CN
Pub. No.: US 2006/0293244 A1
Pub. Date: December 28, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 28, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the benefit/priority claim to application No 09/643,260 was included on page 1 of the originally filed application and on the Application Data Sheet (ADS), but was not included on the front page of the publication.

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 mistake in the omitted benefit claim is not a material error under 37 CFR 1.221(b) because the benefit claim submitted by applicant in the specification and the ADS is improper. The benefit claim provided by Applicant on page 1 of the specification, which states "This application also claims priority to U.S. Provisional Application Serial No. 60/201261 filed May 2, 2000 and to U.S. Patent Application Serial No. 09/643,260 . . ." is improper because the

[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).

provisional application is more than one year before the filing date of the instant application and the relationship to the nonprovisional application is missing. The ADS makes a conflicting benefit claim to the provisional application and the benefit claim to application No. 09/643,260 omits a relationship. See 35 U.S.C. 120 and 37 CFR 1.78 and MPEP 201.11.

To make a proper benefit claim, each application in the chain must include a benefit claim to the earlier application(s). The parent application 09/847,946 does not appear to make a proper benefit claim to 09/643,260. See 35 U.S.C. 120 and 37 CFR 1.78 and MPEP 201.11.

To make a benefit/priority claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. According to 37 CFR 1.55, the priority claim must identify the foreign application and filing date, within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. [3] Since a proper benefit claim to the earlier filed application was not made within the required time period, it was not properly published on the patent application publication. See MPEP 201.11.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

On June 6, 2006 and September 21, 2006, Filing Receipts were mailed by the Office, which indicated the benefit claim as published. To avoid this type of problem in the future, applicant's representative should make a timely and proper amendment along with a request for a corrected filing receipt.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on February 28, 2007, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **complete copies of the 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

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[3] See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

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.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/12/2010

Applicant	: Ali Isaac	: DECISION ON REQUEST FOR
Patent Number	: 7620379	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/439,537	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,559	05/23/2006	James H. Brauker	DEXCOM.051CP4	7433

7590 11/01/2007
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
MALLARI, PATRICIA C

ART UNIT	PAPER NUMBER
3735	

NOTIFICATION DATE	DELIVERY MODE
11/01/2007	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kalethis King
Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT & T LEGAL DEPARTMENT - BHGL
ATTN: PATENT DOCKETING
ROOM 2A- 207
ONE AT & T WAY
BEDMINSTER NJ 07921

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas F. Reynolds	:	DECISION ON PETITION
Application No. 11/439,574	:	TO WITHDRAW
Filed: May 24, 2006	:	FROM RECORD
Attorney Docket No. 8285/842	:	

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, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on October 30, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: AT & T LEGAL DEPARTMENT - GB
ATTN: PATENT DOCKETING
ROOM 2A- 207
ONE AT & T WAY
BEDMINSTER NJ 07921

cc: Scott W. Brim
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/06/09

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11439585 Patent No.: 7481124 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Formatted: Indent: Left: 1.22"

Comments: Note change to claim 19 does not broaden scope since claim 4 depends from claim 1 (via claims 2 and 3).

/TPN/ 7/9/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK, NY 10112-4498

Mail Date: 05/11/2010

Applicant	: Randolf Von Oepen	: DECISION ON REQUEST FOR
Patent Number	: 7658723	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/439,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **537** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 11/18/2008
Patent No. : 7,356,597 B2
Inventor(s) : Xi
Issue Date : April 8, 2008
Title : **ANALYSIS OF ARRAY/ASSAY DATA UTILIZING TRANSFORMATION OF SCATTER PLOT TO IMAGE PLOT**
Doc./File No. : **AISALG-CON1**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, the inventors' names are printed in accordance with the typed names on the Declaration, therefore the error was the result of applicants' failure to comply with the requirement that the correct names be indicated on the Declaration or Oath.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name, since inventors' names are printed solely in accordance with the typed/printed names (not the signatures) on the Declaration or Oath, and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 or 1.323 (required fee currently $100), unless a petition is granted. In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 (required fee currently $130) should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn.: Office of Petitions

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and 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

ERIC P. MIRABEL
35 TECHNOLOGY DRIVE
SUITE 100
WARREN NJ 07059

ecw

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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HOWREY LLP-HN
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-7195

Mail Date: 04/21/2010

Applicant	: Marcio Laureano	: DECISION ON REQUEST FOR
Patent Number	: 7581601	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SILBER & FRIDMAN
1037 ROUTE 46 EAST
SUITE 207
CLIFTON NJ 07013

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JAN 04 2008

OFFICE OF PETITIONS

In re Application of :
Luryi et al. :
Application No. 11/439,614 : DECISION ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. 7822(F0734) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts of Nonprovisional Application which was mailed on June 13, 2006. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 14, 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 Oath and $65 surcharge, (2) the petition fee of 770.00, and (3) an adequate statement of unintentional delay.[1]

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

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

[1] It is noted that the petition, which contains a proper unintentional statement, has only been executed by one co-inventor. Thus, that statement is not properly executed because all of the applicants have not executed the statement pursuant to 37 CFR 1.33

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Patent Application Processing for appropriate action by the normal course of business.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 11 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/439,627	: PETITION DECISION
Filed: May 24, 2006	:
Attorney Docket No.: 1421-249	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed November 27, 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 August 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 Manager
Technology Center 1600

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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MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Vincent C. Giampapa	:	
Application No. 11/439,641	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. 425.121.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 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 Melvin K. Silverman on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely reply to the Office action mailed October 11, 2006.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: VINCENT C. GIAMPAPA
12 ROBINWOOD DRIVE
LITTLE FALLS, NJ 07424

cc: SURACELL, INC.
41 WATCHUNG PLAZA
#316
MONTCLAIR, NJ 07042

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/439,641	05/24/2006	Vincent C. Giampapa	425.121.1

CONFIRMATION NO. 6171

POWER OF ATTORNEY NOTICE

27353
MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE, FL 33309

OC000000030831869

Date Mailed: 07/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2008.

- 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

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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MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

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JUL 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Vincent C. Giampapa	:	
Application No. 11/439,641	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. 425.121.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 2, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SURACELL, INC.
41 WATCHUNG PLASA
#316
MONTCLAIR, NJ 07042

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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Melvin K. Silverman and Assocs PC
500 West Cypress Creek Road
Suite 350
Ft. Lauderdale, FL 33309

COPY MAILED

MAY 12 2008

In re Application of	:	
Vincent C. Giampapa	:	
Application No. 11/439,642	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. 425.122.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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 Melvin K. Silverman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Suracell, Inc.**
41 Watchung Plaza, #316
Montclair, NJ 07042

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
11/439,642	05/24/2006	Vincent C. Giampapa	425.122.1

CONFIRMATION NO. 6169

POWER OF ATTORNEY NOTICE

OC000000029871199

27353
MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE, FL 33309

Date Mailed: 05/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/02/2008.

- 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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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Michael Drumheller	: DECISION ON REQUEST FOR
Patent Number	: 7647211	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **855** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael M. Rickin
ABB Inc.
Legal Department - 4U6
29801 Euclid Avenue
Wickliffe, OH 44092-1832

Mail Date: 04/21/2010

Applicant	: Ake Arvid Hellstrom	: DECISION ON REQUEST FOR
Patent Number	: 7593106	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
William H. Eby
Serial No.: 11/439,661
Filed: May 24, 2006
Attorney Docket No.: 1421-248

OCT 16 2007

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed August 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 August 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 Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 11 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/439,661	: PETITION DECISION
Filed: May 24, 2006	:
Attorney Docket No.: 1421-248	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed November 27, 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 August 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 Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/22/2010

Applicant	: David S. Rougvie	: DECISION ON REQUEST FOR
Patent Number	: 7631669	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,676	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/18/2010

Applicant : David S. Rougvie
Patent Number : 7631669
Issue Date : 12/15/2009
Application No : 11/439,676
Filed : 05/24/2006

: 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 **209** 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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DRINKER BIDDLE & REATH, LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

COPY MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Hyo C. Lee
Application No. 11/439,726
Filed: May 23, 2006
Attorney Docket No. P2634US

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) or 10.40, filed August 7, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Brian Rupp on behalf of himself and all attorneys/agents associated with Customer No. 08968. Therefore, Brian Rupp and all the attorneys/agents associated with Customer No. 08968 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence of record is acceptable as the requested correspondence address is that of the sole inventor. Therefore, all future communications from the Office will be directed to the address listed below until otherwise properly notified by the applicant.

This application is being referred to Technology Center Art Unit 1651 for review of the amendment filed on August 20, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Hyo C. Lee
2170 W. Concord Lane
Addison, IL 60101

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

3-25-8

IFW

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

OIPE IAP22
MAR 24 2008
PATENT & TRADEMARK OFFICE

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/439,727	Confirmation Number	7329	Filing Date	2006-05-23
Attorney Docket Number (optional)	MOI 277	Art Unit	3749	Examiner	TBD
First Named Inventor	William C. Pfefferle				
Title of Invention	Method For Low NOx Combustion of Syngas/High Hydrogen Fuels				

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
William	C.	Pfefferle	Jr.

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		Date (YYYY-MM-DD)	2008-03-24
Name	Robert L. Rispoli	Registration Number	43884

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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM WA 98226

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
David Tung, et al.	:	
Application No. 11/439,731	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 3123-441-1	:	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 30, 2006.

The request is **APPROVED**.

A review of the file record indicates that Tejpal S. Hansra of Hansra Patent Services: (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, Tejpal S. Hansra of Hansra Patent Services has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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).

Applicant is reminded that there is no attorney of record at this time.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID M. TUNG
16 ROCKROSE STREET
LIVERMORE, CA 94550

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY -- SHK2LG
1280 DISC DRIVE
SHAKOPEE, MN 55379

UNITED STATES PATENT AND TRADEMARK OFFICE

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: William J. Bryan	: DECISION ON REQUEST FOR
Patent Number	: 7660509	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: 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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Patrick R. Destain	: DECISION ON REQUEST FOR
Patent Number	: 7607814	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **46** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Pravin KOTHARI, et al	:	
Application No. 11/439,771	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. AGLNNZ00500	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ASH TANKHA
IP PROCURE, INC.
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Ansgar Graw	:	
Application No. 11/439,791	:	ON PETITION
Filed: May 23, 2006	:	
Attorney Docket No. 2006P10705 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 6, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 7, 2009. A Notice of Abandonment was mailed September 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3676 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: GEORGE LIKOUREZOS
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD, SUITE 420
MELVILLE, NY 11747

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,800	05/23/2006	James H. Brauker	DEXCOM.051CP5	6812

EXAMINER

7590 11/01/2007
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

ART UNIT	PAPER NUMBER
3736	

NOTIFICATION DATE	DELIVERY MODE
11/01/2007	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kalethia King
Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Rajesh Ramanathan	: DECISION ON REQUEST FOR
Patent Number	: 7617243	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

In re Application of	:	
Von Oepen et al.	:	
Application No. 11/439,810	:	ON APPLICATION FOR
Filed: May 23, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 003168.0409	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed May 7, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least seven hundred ninety-one (791) days, not seven hundred sixty (760) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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High Point Pharmaceuticals,
LLC
4170 Mendenhall Oaks Parkway
High Point NC 27265

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MAR 15 2010

In re Application of :
Jeppesen et al. :
Application No. 11/439,827 :
Filed: May 23, 2006 : ON APPLICATION FOR
Attorney Docket No. 6598.210-US : PATENT TERM ADJUSTMENT
Title: NOVEL COMPOUNDS, THEIR :
PREPARATION AND USE :

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN THE NOTICE OF ALLOWANCE" filed January 18, 2010. This petition is properly treated under 37 C.F.R. 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred ninety-three (593) days, not two hundred forty-seven (247) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required with respect to 37 CFR 1.705(b).

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].

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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.

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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PO BOX 16370
OKLAHOMA CITY OK 73113

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JUL 06 2010

OFFICE OF PETITIONS

In re Application	:	
Lee Angros et al.	:	
Application 11/439,834	:	DECISION ON PETITION
Filed: May 24, 2006	:	
Attorney Docket No. 233.066	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 15, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the amendment and election is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on April 16, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received April 16, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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JAN 30 2008

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :	:
William H. Eby	:
Serial No.: 11/439,842	: PETITION DECISION
Filed: May 24, 2006	:
Attorney Docket No.: 1421-251	

This is in response to the petition under 37 CFR § 1.59(b), filed November 26, 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 November 26, 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 Manager
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,842	05/24/2006	William H. Eby	1421-251	6498

32905 7590 06/13/2008
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
BAUM, STUART F

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
06/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

JUN 13 2008

In re Application of :
William H. Eby
Serial No.: 11/439,842
Filed: May 24, 2006
Attorney Docket No.: 1421-251

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 2, 2008, 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 November 26, 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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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :	:
William H. Eby	:
Serial No.: 11/439,843	: PETITION DECISION
Filed: May 24, 2006	:
Attorney Docket No.: 1421-250	

This is in response to the petition under 37 CFR § 1.59(b), filed November 26, 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 November 26, 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 Manager
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,843	05/24/2006	William H. Eby	1421-250	6494

32905 7590 06/13/2008
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
BAUM, STUART F

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
06/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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858 HAPPY CANYON ROAD SUITE 230
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JUN 1 3 2008

In re Application of :
William H. Eby
Serial No.: 11/439,843
Filed: May 24, 2006
Attorney Docket No.: 1421-250

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 2, 2008, 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 November 26, 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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OFFICE OF PETITIONS

In re Application of

DURAN, Julio
Application No. 11/439,844
Filed: May 24, 2006
Attorney Docket No. **760-207**

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 19, 2009.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Anna-Lisa Gallo on behalf of all attorneys of record who are associated with customer No. 23869. All attorneys/agents associated with the Customer Number 23869 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Julio Duran 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: **JULIO DURAN**
2467 RT. 10, UNIT 18-1B
MORRIS PLAINS NJ 07950

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OFFICE OF PETITIONS

In re Application of

Michael Joseph Lourdeaux

Application No. 11/439,864

Filed: May 24, 2006

Attorney Docket No. 1776-001

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 24, 2009.

The petition is **granted**.

This application was held abandoned July 3, 2008, after no reply was received to the non-final Office action mailed April 2, 2008. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 3, 2008. A Notice of Abandonment was mailed January 6, 2009. The instant petition was filed on February 24, 2009. Petitioner maintains that the notice of April 2, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2166 for further processing that will include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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
SINGH, et al.
Application No. 11/439,874
Filed: May 23, 2006
Attorney Docket No. **022205-001230US**

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 11, 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 May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **O'MELVENY & MYERS LLP**
610 NEWPORT CENTER DRIVE, 17TH FLOOR
NEWPORT BEACH, CA

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
SINGH, et al.	:	
Application No. 11/439,884	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. **022205-001240US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 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 May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **O'MELVENY & MYERS LLP**
610 NEWPORT CENTER DRIVE, 17TH FLOOR
NEWPORT, BEACH, CA 92660

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K.F. ROSS P.C.
5683 RIVERDALE AVENUE
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BRONX NY 10471-0900

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Garneyer et al.	:	
Application Number: 11/439890	:	DECISION DISMISSING PETITION
Filing Date: 07/28/2006	:	
Attorney Docket Number: 23129	:	

This is a decision on the "PETITION TO ACCORD THE ORIGINAL FILING DATE," filed on May 24, 2006, which is treated as a petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of February 22, 2005.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **dismissed**.

Petitioner alleges that the application was originally deposited in "Express Mail" service with the United States Postal Service (USPS) on February 22, 2005, but subsequently lost after receipt at the USPTO. Petitioner further states that an itemized postcard date-stamped February 25, 2005, was received from the USPTO. Although petitioner states that a copy of the postcard is included with the petition, no copy of the postcard is located among the papers received with the subject petition.

37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the

correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

At the outset, the present petition does not establish that the application was, in fact, deposited in Express Mail service on the requested date. No copy of the "Express Mail" Customer Label or other evidence verifying the date the application papers were deposited with the USPS in "Express Mail Post Office to Addresee" Service has been provided. In the absence of the Express Mail label showing the date in or other evidence from the USPS, petitioners have not presented sufficient proof to establish, to the satisfaction of the Director, that the application papers were deposited in Express Mail service on February 22, 2005.

If petitioner did not receive a completed Express Mail Customer label from the USPS, petitioner may wish to consider requesting evidence from the USPS, such as a letter from the USPS stating that the Express Mail shipment bearing the Express Mail Number in question was in fact deposited with the USPS in Express Mail Post Office to Addressee Service on February 22, 2005.

It is additionally noted that the papers filed with the petition on May 24, 2006, did not include a complete copy of the specification, claims, and drawings, as filed. In this regard,

the Application Transmittal sheet asserted to have been filed on February 22, 2005, states that seven (7) sheets of drawings were filed, eight (8) sheets are itemized on the transmittal letter received on July 28, 2006, in response to the Notice of Incomplete Nonprovisional Application mailed on June 1, 2006, and eight (8) sheets of drawings were filed on July 28, 2006. Petitioner must explain this discrepancy.

Further, a copy of the itemized postcard referenced in the petition should be provided with any renewed petition.

Accordingly, the petition is dismissed. However, such dismissal is without prejudice to reconsideration pending submission of a statement from the USPS or other proper evidence showing that the application as filed was accepted by the USPS in "Express Mail Post Office to Addressee" Service on February 22, 2005.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randloph Building
401 Dulany Street
Alexandria VA 22314

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

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DEC 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Garneyer et al.	:	
Application Number: 11/439890	:	DECISION GRANTING PETITION
Filing Date: 02/22/2005	:	
Attorney Docket Number: 23129	:	

This is a decision on the "RENEWED PETITION TO ACCORD ORIGINAL FILING DATE," filed on November 19, 2008, which is treated as a renewed petition under 37 CFR 1.10(e),[1] requesting that the above-identified application be accorded a filing date of February 22, 2005.

The petition is **GRANTED**.

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[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioner again alleges that the application was originally deposited in "Express Mail" service with the United States Postal Service (USPS) on February 22, 2005, but subsequently lost after receipt at the USPTO. Petitioner further states that an itemized postcard date-stamped February 25, 2005, was received from the USPTO.

The renewed petition is accompanied by a copy of the Express Mail label, receipt No. EV467342201US, showing a "date-in" and official USPS postmark both dated February 22, 2005. The same Express Mail receipt number was referenced on the itemized Application Transmittal Sheet submitted with the application papers.[2] Petitioner has further provided a copy of a postcard receipt itemizing the filing of a specification, claims, abstract, and 7 sheets of drawings. The postcard receipt contains an Office-date stamp dated February 25, 2005, and also contains a copy of the Express Mail number.

Upon further review, 37 pages of specification, including 11 pages of claims, and seven (7) sheets of drawings have been located among the papers filed with the original petition deposited on May 24, 2006.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[3] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on February 22, 2005.

The application will be processed and examined with a filing date of February 22, 2005, using the copies of the application papers originally filed.

The application is being referred to the Office of Patent Application Processing for reprocessing with a filing date of **February 22, 2005**, using the application papers present on filing.

---

[2] It is noted that the application transmittal sheet lists the Express Mail Label number as "EV467342204" but omits the suffix "US". Nevertheless, it is concluded, there is sufficient information to link the Express Mail number on the Express Mail Customer Label to the application papers received in the Official file. Petitioners are cautioned, however, that the entire Express Mail label number should be included on the itemized transmittal sheet in future filings.

[3] MPEP 513.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 11 2009

OFFICE OF PETITIONS

In re Patent No. 7349829	:	
Issue Date: 03/25/2008	:	
Application No. 11/439891	:	ON PETITION
Filed: 05/24/2006	:	
Attorney Docket No. 23593-0002001	:	

This is a decision on the petition filed on November 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The $130.00 fee for the request under 37 CFR 3.81(b) will be charged to counsel's deposit account, as authorized in the subject request.

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 Wood
Senior Petitions Attorney
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAR 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Fischer et al.	:	
Application No. 12/073691	:	DECISION ON PETITION
Filed: 03/07/2008	:	
Attorney Docket No. 028232-0120	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 14, 2008, to change the name of inventor "Christine Jenson" to — Christine Anderson --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3231. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1618 for examination in due course.

D Wood
Douglas Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/439,895	05/24/2006	Gregory C. Dua	P/4525-25

CONFIRMATION NO.
7266

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

Date Mailed: October 6, 2006

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

COPY MAILED
DEC 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Kjeldsen, et al.	:	
Application No. 11/439,897	:	DECISION GRANTING PETITION
Filed: May 24, 2006	:	
Attorney Docket No. 6807.204-US	:	

This is a decision on the petition filed October 5, 2006, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed June 22, 2006.

On May 24, 2006, the application was deposited.

On June 22, 2006, the Office of Initial Patent Examination mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on October 5, 2006. Petitioner argues that the application should be accorded a filing date of May 24, 2006.

It has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claim 30 in the disclosure is a method claim. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of May 24, 2006.

It is noted that the instant petition is untimely as the Notice of Incomplete Nonprovisional Application required a response within two months of its mailing date and that time period was not extendable pursuant to 37 CFR 1.136. See 37 CFR 1.53(e). Consideration is given, however, for the fact that it has been determined that the application was, in fact, entitled to a filing date as it was filed on May 24, 2006. Accordingly, the requirement of 37 CFR 1.53(e) that the petition be filed within two-month of the mailing date of Notice of Incomplete Nonprovisional Application is being waived, *sua sponte*, pursuant to 37 CFR 1.183 and the petition was considered in spite of its untimeliness.

The petition fee of $400.00 will be refunded to deposit account 14-1447, in due course.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date May 24, 2006 Applicant should file a preliminary amendment before the first action on the merits requesting entry of the drawings.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAY 29 2007

TECHNOLOGY CENTER 2100

Christopher J. Palermo
2055 Gateway Place, Suite 500
San Jose, CA 95110

In re Application of: Matthew Lawrence King et al	)
Application No. 11/439,930	) Petition Under 37 CFR 1.48(a)
Attorney Docket No. 50325-1250	)
Filed: May 23, 2006	)
For: Providing Data Session Source Device	)
Information	)

This is a decision on the petition filed October 16, 2006 to correct inventorship under 37 CFR 1.48(a). In view of the papers and petition filed October 16, 2006, it has been found that this non-provisional application, as filed, through error, and without deceptive intent, improperly set forth the inventorship, and accordingly has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Wayne Roiger, such that inventorship is now Matthew Lawrence King, Frank Brockners, Richard Mandred Pruss, and Wayne Roiger.

The petition has been **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship, as corrected.

Inquires to this decision may be directed to Primary Examiner Christopher Revak at (571) 272-3794.

Christopher Revak
Technology Center 2100
Computer Architecture, Software, and Information Security

CHRISTOPHER REVAK
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,957	05/25/2006	Takashi Namba	034360-004	6535

7590 10/19/2009
Phan Law Group PLLC
P.O. Box 748
Alexandria, VA 22313-0748

EXAMINER
DONDERO, WILLIAM E

ART UNIT	PAPER NUMBER
3654	

MAIL DATE	DELIVERY MODE
10/19/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Zaletus Buchanan

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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18 DOWNSVIEW DRIVE
BARRIE ON L4M 4P8
CANADA

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APR 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Marlene Rene Slopack	:	DECISION ON PETITION TO
Application Number: 11/439978	:	WITHDRAW HOLDING OF
Filing Date: 05/25/2006	:	ABANDONMENT
Attorney Docket Number:	:	
DWE/SLOPACK	:	

This is a decision on the petition filed on March 11, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on August 4, 2008, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on March 4, 2009.

Petitioners aver that a reply was timely filed by facsimile. In support, petitioners submitted with the petition a copy of the reply allegedly filed. The transmittal letter accompanying the reply contains a certificate of transmission by facsimile dated September 13, 2008, signed by registered patent practitioner Douglas W. Eggins. The petition, signed by practitioner Eggins, states that the reply was filed in the Office by facsimile on September 13, 2008. A copy of the USPTO Auto-Reply Facsimile Transmission report, showing receipt of eight (8), including the cover sheet containing the Certificate of Mailing or Transmission, on September 13, 2008, has also been supplied with the petition.

Upon review, petitioners' reply filed on September 15, 2008 (certificate of transmission/mailing dated September 13, 2008), has been located in the Official file. As such, the showing of record is that a timely reply was filed in response to the non-final Office action mailed on August 4, 2008.

Accordingly, there is no abandonment in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application is being referred to Technology Center Art Unit 3634 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	: Masami Ohnishi	: DECISION ON REQUEST FOR
Patent Number	: 7589588	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/439,990	: OF WYETH
Filed	: 05/25/2006	:
		:

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Nakanishi, et al.	:	ON PETITION
Application No.: 11/439,995	:	
Filed: May 25, 2006	:	
Attorney Docket No.: 5391-0101PUS1	:	

This is a decision on the petition under 37 CFR 1.47(a), filed January 9, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 25, 2006. On June 27, 2006, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring applicants to submit an executed declaration and a surcharge for its late filing. On January 9, 2007, petitioners submitted a request for a five month extension of time and required fee, a declaration signed by four of six joint inventors, a $130.00 late declaration surcharge, a petition under 37 CFR 1.47(a), and the required $200.00 petition fee. A statement of facts by Shigeo Terashima, Group General Manager, IP Group of Sharp Kabushiki Kaisha, a party in interest, accompanies the petition. Mr. Terashima states that a copy of the application, an assignment, and a declaration were successfully mailed to non-signing inventor Tsuyoshi Kamada and Mr. Kamada subsequently returned the documents and in an email dated July 6, 2006 constructively refused to cooperate in the filing of this application. Mr. Terashima states that a mailing to Mr. Tsuda's last known address was twice returned and that Mr. Tsuda definitely lives at the specified address.

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 items (1) and (2) above.

As to item (1), applicants have failed to establish that Mr. Kamada has refused to join in the filing of this application. The declaration of Mr. Terashima states that a July 6, 2006 email from Mr. Kamada that states Mr. Kamada had decided not to sign the declaration and assignment documents for this application. The June 19, 2007 email is **not** present among the petition papers. Per MPEP 409.03(d) Proof of unavailability or refusal: When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. Please send a copy of the July 6, 2006 email with any reconsideration petition. In addition, please provide a copy of the notation on the documents sent to Mr. Kamada on June 9, 2006 and subsequently returned on July 3, 2006.

Applicants have failed to establish that Mr. Tsuda has refused to join in the filing of this application. The record shows that the application papers were sent by certified mail to his last known address on two occasions. They were ultimately returned to sender. Certified mail in Japan obligates the recipient to take some sort of action in order to receive the mailing, if the recipient was not at home when the first attempt at delivery was made. The Office does not require non-signing inventors to put effort into receiving application papers.

Applicants are requested to send the application papers and a declaration and assignment, if desired, to Mr. Tsuda at his last known address. If Mr. Tsuda does not return executed documents within a reasonable period of time, it would indicate a constructive refusal to cooperate in the filing of this application. Applicants could specify period for reply in any cover letter mailed with the application papers.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains noninitialed, nondated alterations to information for Yasutoshi Taska. The residence field for Masakuzo Shibasaki is illegible and appears to be incomplete, due to alterations. The mailing addresses for both non-signing inventors and the residence field for Hideaki Tsuda are inaccurate, as they do not live at their former employer's address.

Petitioners should correct the above matters by filing an ADS with correct information for all joint inventors.

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

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OFFICE OF PETITIONS

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PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Nakanishi, et al.	:	ON PETITION
Application No.: 11/439,995	:	
Filed: May 25, 2006	:	
Attorney Docket No.: 5391-0101PUS1	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed March 26, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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 (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The supplemental declaration submitted with the present petition lists only three joint inventors. The declaration filed on January 9, 2007 lists six joint inventors.

Petitioners should file a supplemental declaration, executed by Masakazu Shibasaki, Yasutoshi Taska and Hideaki Tsuda that lists complete and accurate information for all joint inventors, including the non-signing joint inventor. 37 CFR 1.67(a)(2)

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a)

Petitioners paid two Rule 47 petition fees. Only one is required. Deposit account no. 02-2448 will be credited one $200.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Nakanishi, et al.	:	
Application No.: 11/439,995	:	
Filed: May 25, 2006	:	
Attorney Docket No.: 5391-0101PUS1	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 11, 2009.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Tsuyoshi Kamada and Hideaki Tsuda, have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 referred to Technology Center A.U. 2881 for consideration of the amendment filed on January 26, 2009.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TSUYOSHI KAMADA
1352-2-501 SUENAGA TAKATSU-KU
KAWASAKI-SHI
KANAGAWA 213-0013
JAPAN

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Nakanishi, et al. : ON PETITION
Application No.: 11/439,995 :
Filed: May 25, 2006 :
Attorney Docket No.: 5391-0101PUS1 :

Dear Mr. Kamada:

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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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HIDEAKI TSUDA
KOAROODO EBINA3 402
174 NAKASHINDEN, EBINA-SHI
KANAGAWA 243-0422
JAPAN

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of
Nakanishi, et al.
Application No.: 11/439,995
Filed: May 25, 2006
Attorney Docket No.: 5391-0101PUS1

ON PETITION

Dear Mr. Tsuda:

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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/440,005	05/25/2006	Petra Bloms-Funke	029310.57729US	7432

23911 7590 04/29/2010
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
CLAYTOR, DEIRDRE RENEE

ART UNIT	PAPER NUMBER
1627	

MAIL DATE	DELIVERY MODE
04/29/2010	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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APR 2 9 2010

J. D. Evans
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:
Blooms-Funke et al	:Decision on Petition
Serial No.: 11/440,005	:
Filed : 25 May 2006	:
Attorney Docket No.:029310.57729US	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 26 March 2010 requesting reconsideration of the restriction requirement.

BACKGROUND

This application was filed as a national application under 35 USC 111(a). As such, this application is entitled to US restriction practice.

On 10 January 2008, the examiner required a restriction between Group I, claims 1-8 drawn to pharmaceutical formulation comprising a C-(2-phenylk-cyclohexyl)-methylamine compound, Group II, claims 9-11, drawn to a method of treating anxiety or depression using the compound of Group I and Group III, claims 12-20, drawn to a method of treating fibromyalgia or chronic pain by administering the compound of Group I. The examiner also required an election of species of compound. The examiner reasoned that the process of Group II could be practiced by a materially different product.

On 11 September 2009, applicants elected Group I, with traverse, stating that the method of use claims require the product of Group I. Applicant cancelled claims 12-20.

On 10 December 2009, the examiner considered the traversal and made the restriction requirement FINAL. Claims 2, 4-7 and 9-11 were withdrawn from consideration as being

directed to the non-elected invention. Claims 1, 3 and 8 were rejected under 35 USC 102(a) and (e).

On 26 March 2010, applicants filed this petition.

DISCUSSION

The file history and petition have been considered carefully.

The examiner has taken the position that Group I and II are distinct because the process of Group II could be practiced with another materially different product such as a tricyclic anti-depressant.

The petition argues that the inventions of Group I and II are not distinct because the process of Group II requires the product of Group I. Applicants are correct. Claim 9, for example, does not encompass the use of tri-cyclic anti-depressives.

> **9. (original) A method for treating anxiety in a mammal, said method comprising administering to a mammal in need thereof a pharmaceutically effective amount of a pharmaceutical formulation according to claim 1.**

MPEP 806.05(h) sets forth the following guidance for distinction between products and process of use:

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process. The burden is on the examiner to provide an example, but the example need not be documented.

Here, applicant has shown that the alternative use suggested by the examiner cannot be accomplished because the method of Group II required the product of Group I. In this situation, MPEP 806.05(h) provides the following guidance:

> If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

The Office now provides an alternative use for the product of claim 1 to establish distinction between the product and process inventions. As evidenced by US Patent No 6,908,944, of record, the product of Group I can be used in a materially different method for the treatment of urinary incontinence. A method of treating a patient with urinary incontinence is patentably distinct from a method of treating depression in Group II. For this reason, the restriction between Groups I, II and III is proper.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 26 March 2010 is **DENIED**.

The restriction requirement between Group I, II and III has been maintained.

It is noted that Applicants have elected the product for examination. Should all claims to the product invention become allowable, the examiner should consider the process claims for rejoinder under MPEP 821.04(b).

Applicants remain under obligation to respond in a timely manner to the non-final Office action mailed 10 December 2010.

Any request for reconsideration of this decision should be mailed within two (2) months of the mail date of this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Hisamitsu HORI	:	
Application No. 11/440,008	:	DECISION ON PETITION
Filed: May 25, 2006	:	
Attorney Docket No. 0879-0747PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 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 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 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 $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3729 for appropriate action by the Examiner in the normal course of business on the reply received September 11, 2009.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Chun-Hung Chen	: DECISION ON REQUEST FOR
Patent Number	: 7655872	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/440,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **874** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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/FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 19 2007

OFFICE OF PETITIONS

In re Application of KRISHNAN et al. Application No. 11/440032 Filed: 05/25/2006 Attorney Docket No. 01142.0379-00000 For: CRYSTALLINE SOLID FORMS OF TIGECYCLINE AND METHODS OF PREPARING SAME	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 18, 2006. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition under 37 CFR 1.47(a) is granted.

Petitioners showed that the non-signing inventor constructively refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, petitioners established that they mailed a copy of the application papers to the last known address of the non-signing inventor; however, he did not respond to the request to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center AU 1671 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Anthony Hadfield
5555 Highland Street, South
St. Petersburg, FL 33705

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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
KRISHNAN et al.	:	
Application No. 11/440032	:	
Filed: 05/25/2006	:	LETTER
Attorney Docket No. 01142.0379-00000	:	
For: CRYSTALLINE SOLID FORMS OF	:	
TIGECYCLINE AND METHODS OF	:	
PREPARING SAME	:	

Dear Mr. Hadfield:

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 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 the Certification Division at (571) 272-3150 or (800) 972-6382 (outside the Washington, DC area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

WYETH/FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/440,058	05/25/2006	Kazuei Yoshioka	291669US2X	6634

7590 09/16/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
KUMAR, KALYANAVENKA K

ART UNIT	PAPER NUMBER
3653	

NOTIFICATION DATE	DELIVERY MODE
09/16/2008	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/12/2008 BPOWELL
05/26/2006 SFELEKE1 00000054 11440058
02 FC:1111 -500.00 OP

Refund Ref:
09/12/2008 0030061072

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1001

FORM PET651G (Rev. 08/07)

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Shalin N. SHAH	:	
Application No. 11/440,062	:	DECISION ON PETITION
Filed: May 25, 2006	:	TO WITHDRAW
Attorney Docket No. 023253.0102PTUS	:	FROM RECORD
	:	

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 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. 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 Matthew J. Laskoski on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: SHALIN NAYAN SHAH
9600 MILESTONE WAY
COLLEGE PARK, MD 20740

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/440,062	05/25/2006	Shalin N. Shah	023253.0102PTUS

CONFIRMATION NO. 6667

POWER OF ATTORNEY NOTICE

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000039599287

Date Mailed: 01/11/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/10/2009.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,637,300	:	
Issue Date: December 29, 2009	:	
Application No. 11/440,066	:	NOTICE
Filed: May 25, 2006	:	
Attorney Docket No. 053488	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FEB 13 2009

OFFICE OF PETITIONS

Jagitiani + Guttag
10363 – A Democracy Lane
Fairfax, VA 22030

In re Application of	:	
Naomi Balaban	:	
Application No. 11/440,093	:	DECISION ON PETITION
Filed: May 25, 2006	:	TO WITHDRAW
Attorney Docket No. CENT-0007-CO4	:	FROM RECORD
	:	

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 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven B. Kebler. Steven B. Kelber has been withdrawn. All other attorneys/agents will remain of record. The correspondence address will not be changed until further notified by the applicant.

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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United States Patent and Trademark Office
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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	: Takeshi Sato	: DECISION ON REQUEST FOR
Patent Number	: 7619251	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/440,180	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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DEC 10 2007

OFFICE OF PETITIONS

Patent No. 7,221,341	:	LETTER REGARDING
Issue Date: May 22, 2007	:	PATENT TERM ADJUSTMENT
Application No. 11/440,182	:	AND
Filed: May 25, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 02910.000077.1	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed June 27, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request review of the Patent Term Adjustment for the above-identified patent.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of zero (0) days.

On May 22, 2007, this application matured into U.S. Patent No. 7,221,341, with a revised patent term adjustment of 85 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that it is incorrect. A period of reduction should have been entered pursuant to § 1.704(c)(10) for applicant delay. After the mailing of the notice of allowance on October 5, 2006, on April 26, 2007, applicants filed an amendment. The Office took action in response issuing the patent on May 22, 2007. Accordingly, a period of reduction

of 27 days for the period beginning on April 26, 2007 and ending on May 22, 2007 is being entered.

Moreover, the period of adjustment pursuant to 37 CFR 1.702(a)(4) of 87 days should not have been entered. 37 CFR 1.702(a)(4) provides that a period of adjustment should be entered for Office failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied. However, in this instance, all outstanding requirements were not satisfied until the amendment to satisfy the drawing requirement in response to the Notice to File Corrected Application Papers, was filed on April 26, 2007. As the application issued into a patent within four months, on May 22, 2007, there was no Office delay within the meaning of 37 CFR 1.702(a)(4). The period of adjustment of 87 days has been removed.

In view thereof, the patent should have issued with a revised patent term adjustment of zero (0) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(d). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0)** 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 : 7,221,341 B2

DATED : **May 22, 2007**

INVENTOR(S) : Kawasaki et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 85 days

Delete the phrase "by 85 days" and insert – by 0 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Pravin KOTHARI, et al	:	
Application No. 11/440,191	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. AGLNNZ00400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ASH TANKHA
IP PROCURE, INC.
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Muhammad Hameed	: DECISION ON REQUEST FOR
Patent Number	: 7636042	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/440,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/440,194	05/23/2006	Gregory S. Hill	10051512-01	6685

EXAMINER

7590 12/11/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
12/11/2009	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARMER
05/26/2006 ZJUHAR1 00000056 501078 11440194
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Reissue Application of :
Vernon Wong et al. :
Application No. 11/440,204 : ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. D-3136con1cipredi v :

This is a decision on the petition under 37 CFR 1.47(a) filed March 5, 2008, which is being treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR §§ 1.67 and 1.172 which would require that the supplemental reissue declaration of March 5, 2008 have been executed by the inventors.[1]

The petition is **DISMISSED**.

BACKGROUND

1. U.S. Patent No. 6,369,116 issued to Wong and Peng on April 9, 2002.

2. A broadening reissue application was filed for the '116 patent on April 5, 2004, and it was assigned application number 10/820,663. The instant application filed May 23, 2006 is a division of 10/820,663.

3. During the prosecution of the parent application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On June 27, 2007 a non-Final Office Action was mailed in the instant application noting that the reissue declaration signed by Wong and Peng was defective because it failed to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and M.P.E.P. § 1414.

5. A response to the non-Final Office Action was filed December 31, 2007 with a

[1] Rule 47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor can not be obtained. As both Wong and Peng executed an original reissue declaration and thus "made" the application, 37 CFR 1.47 never applied to this case. See 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183 when a required supplemental declaration is not executed in whole or in part by a previously signing inventor(s). See MPEP 603.

certificate of mail dated December 27, 2007 and a three month extension of time, although with an unsigned supplemental reissue declaration as was required in the June 27, 2007 non-Final Office Action.

6. The supplemental declaration is signed by joint inventor Wong and the petition purports to show that joint inventor Peng has refused to sign the Reissue Declaration despite efforts to have him do so.

DECISION

The provisions of 35 U.S.C. 251, which is directed to reissue of patents, do not address the signature requirements of a declaration or oath in reissue. As to the reissue regulations, 37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

In the present instance, the supplemental declaration is only signed by one of the joint inventors. 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and the present petition is being treated as a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventors.

Page 3 of the petition provides:

> "On December 10, 2007 the undersigned prepared a Supplemental Declaration for the inventor's signatures and mailed an original of this document, along with a copy of the presently pending claims and the '116 patent specification to the last known address of each of the inventors by certified mail. Copies of the December I0, 2007 cover letter and the returned receipts indicating successful delivery are included as Exhibit B.

Although the instant petition refers to "Exhibit B" which purportedly would show that petitioners forwarded a copy of the Supplemental Declaration along with a copy of the

presently pending claims and the '116 patent specification to the last known address of each of the inventors by certified mail, no such Exhibit has been found with the petition. Thus, petitioners have not provided sufficient proof that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent to the non-signing inventor.

Petitioners may show proof that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent or given to the non-signing inventor for review by providing "Exhibit B".

CONCLUSION

1. The instant petition fails to provide an appropriate and sufficient showing that the reissue application and supplemental reissue declaration were forwarded to the last known address for joint inventor Peng

2. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 therefore cannot be waived and the March 5, 2008, "Supplemental Reissue Application Declaration" signed only by joint inventor Wong submitted with the present petition can not be accepted as though it was signed by both joint inventors Wong and Peng.

3. Petitioner's deposit account no. 01-0885 has been charged in the amount of $400 for the petition filed herein pursuant to 37 CFR 1.17(f) consistent with the authorization in the petition.

4. As a proper and timely response was not filed in response to the non-Final Office Action mailed June 27, 2007, the application became abandoned.

5. Before the application can receive further consideration, a petition to revive under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] must be filed.

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[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[3]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to

Any renewed petition in response to this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

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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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JUL 11 2008

OFFICE OF PETITIONS

In re Reissue Application of
Vernon Wong et al.
Application No. 11/440,204
Filed: May 23, 2006
Attorney Docket No. D-3136con1ciprediv

ON PETITION

This is a decision on the renewed petition filed April 18, 2008, under 37 CFR 1.183, requesting waiver of 37 CFR §§ 1.67 and 1.172 which would otherwise require that the supplemental reissue declaration of March 5, 2008 have been executed by the inventors. [1] This decision is also in response to the petition to revive, filed on even date, under 37 CFR 1.137(b).

The petition under 37 CFR 1.183 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

BACKGROUND

1. U.S. Patent No. 6,369,116 (the '116 patent) issued to Wong and Peng on April 9, 2002.

2. A broadening reissue application was filed for reissue of the '116 patent on April 5, 2004, and it was assigned application number 10/820,663. The instant application, filed May 23, 2006, is a division of 10/820,663.

3. During the prosecution of the parent reissue application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On June 27, 2007 a non-Final Office Action was mailed in the instant application noting that the reissue declaration signed by Wong and Peng was defective, because it failed to identify at least one error being relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

5. A response to the non-Final Office Action was filed December 31, 2007 with a certificate of mailing dated December 27, 2007, and a three month extension of

[1] Rule 47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor can not be obtained. As both Wong and Peng executed an original reissue declaration and thus "made" the application, 37 CFR 1.47 never applied to this case. See 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183 when a required supplemental declaration is not executed in whole or in part by a previously signing inventor(s). See MPEP 603.

time, although the supplemental reissue declaration as was required in the June 27, 2007 non-Final Office Action was unsigned.

6. On March 5, 2008, applicant filed a petition which was treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

7. The petition was accompanied by a "Supplemental Reissue Application Declaration signed by joint inventor Wong and purported to show that joint inventor Peng refused to sign the Reissue Declaration despite efforts to have him do so.

8. The petition was dismissed in a decision mailed March 31, 2008, because, although the petition referred to "Exhibit B" which purportedly would show that petitioners forwarded a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification to the last known address of each of the inventors by certified mail, no such Exhibit was found to have been submitted with the petition. Thus, petitioners had not therefore provided sufficient proof that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent to the non-signing inventor. A showing was therefore required as to what additional efforts were made to obtain the non-signing inventor's signatures, and why they were not successful.

DECISION

37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

Comes now petitioner with proof (a) that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent to the last known address of non-signing inventor Peng and received, and (b) that while sent and received, joint inventor Peng had not submitted an executed copy of the Supplemental Declaration.

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventors.

The instant petition and supporting documentation provide an appropriate and sufficient showing that despite efforts to have joint inventor Peng sign the supplemental declaration, by his actions, joint inventor Peng, refuses to do so. Accordingly, petition under 37 CFR 1.183 is granted, and the rules are hereby waived to the extent that the "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by all of the inventors as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

With regard to petition the under 37 CFR 1.137 (b), applicants state, in the third from last paragraph of the petition, that "the entire delay from the due date for the required reply to the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." In addition, the requisite response and petition fee have been submitted. Accordingly, that petition is granted to revive the application.

CONCLUSION

1. The petition under 37 CFR 1.183 is granted to waive the rules.

2. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 are hereby waived to the extent that the April 18, 2008, "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by all of the inventors.

3. The petition to revive under 37 CFR 1.137 (b) is granted.

4. The present application is being forwarded to Technology Center 1616 for further prosecution.

5. Any questions regarding this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

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JUL 11 2008

In re Reissue Application of	:	
Vernon Wong et al.	:	
Application No. 11/440,204	:	ON PETITION
Filed: May 23, 2006	:	
Attorney Docket No. D-3136con1cipredi v	:	

This is a decision on the renewed petition filed April 18, 2008, under 37 CFR 1.183, requesting waiver of 37 CFR §§ 1.67 and 1.172 which would otherwise require that the supplemental reissue declaration of March 5, 2008 have been executed by the inventors. [1] This decision is also in response to the petition to revive, filed on even date, under 37 CFR 1.137(b).

The petition under 37 CFR 1.183 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

BACKGROUND

1. U.S. Patent No. 6,369,116 (the '116 patent) issued to Wong and Peng on April 9, 2002.

2. A broadening reissue application was filed for reissue of the '116 patent on April 5, 2004, and it was assigned application number 10/820,663. The instant application, filed May 23, 2006, is a division of 10/820,663.

3. During the prosecution of the parent reissue application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On June 27, 2007 a non-Final Office Action was mailed in the instant application noting that the reissue declaration signed by Wong and Peng was defective, because it failed to identify at least one error being relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

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[1] Rule 47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor can not be obtained. As both Wong and Peng executed an original reissue declaration and thus "made" the application, 37 CFR 1.47 never applied to this case. See 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183 when a required supplemental declaration is not executed in whole or in part by a previously signing inventor(s). See MPEP 603.

5. A response to the non-Final Office Action was filed December 31, 2007 with a certificate of mailing dated December 27, 2007, and a three month extension of time, although the supplemental reissue declaration as was required in the June 27, 2007 non-Final Office Action was unsigned.

6. On March 5, 2008, applicant filed a petition which was treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

7. The petition was accompanied by a "Supplemental Reissue Application Declaration signed by joint inventor Wong and purported to show that joint inventor Peng refused to sign the Reissue Declaration despite efforts to have him do so.

8. The petition was dismissed in a decision mailed March 31, 2008, because, although the petition referred to "Exhibit B" which purportedly would show that petitioners forwarded a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification to the last known address of each of the inventors by certified mail, no such Exhibit was found to have been submitted with the petition. Thus, petitioners had not therefore provided sufficient proof that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent to the non-signing inventor. A showing was therefore required as to what additional efforts were made to obtain the non-signing inventor's signatures, and why they were not successful.

DECISION

37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

Comes now petitioner with proof (a) that a copy of the Supplemental Declaration along with a copy of the presently pending claims and the '116 patent specification was sent to the last known address of non-signing inventor Peng and received, and (b) that while sent and received, joint inventor Peng had not submitted an executed copy of the Supplemental Declaration.

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventors.

The instant petition and supporting documentation provide an appropriate and sufficient showing that despite efforts to have joint inventor Peng sign the supplemental declaration, by his actions, joint inventor Peng, refuses to do so. Accordingly, petition under 37 CFR 1.183 is granted, and the rules are hereby waived to the extent that the "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by all of the inventors as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

With regard to petition the under 37 CFR 1.137 (b), applicants state, in the third from last paragraph of the petition, that "the entire delay from the due date for the required reply to the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." In addition, the requisite response and petition fee have been submitted. Accordingly, that petition is granted to revive the application.

CONCLUSION

1. The petition under 37 CFR 1.183 is <u>granted</u> to <u>waive the rules</u>.

2. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 are hereby waived to the extent that the April 18, 2008, "Supplemental Reissue Application Declaration" submitted with the present petition <u>will be accepted</u> as though it was signed by all of the inventors.

3. The petition to revive under 37 CFR 1.137 (b) is <u>granted</u>.

4. The present application is being forwarded to Technology Center 1616 for further prosecution.

5. Any questions regarding this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No.

FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK NY 10994

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NOV 29 2006
OFFICE OF PETITIONS

In re Application of :
Claude Roessiger : DECISION ON PETITION
Application No. 11/440,208 :
Filed: May 23, 2006 :
Attorney Docket No. 9118.1-P :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)) filed October 26, 2006.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a foreign or international application filed on July 13, 2006. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of March 8, 2007 accompanies this decision on petition.

The application will be examined in Technology Center AU 3727 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Petitions Attorney
Office of Petitions

Attachment: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/440,208	05/23/2006	Claude Roessiger	9118.1-P

CONFIRMATION NO. 5262

021494
FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

Date Mailed: 11/28/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/08/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

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AUG 15 2008

In re Application of	:	
SZETO, et al	:	
Application No. 11/440,231	:	DECISION ON PETITION
Filed: May 23, 2006	:	TO WITHDRAW
Attorney Docket No. 07360-1015	:	FROM RECORD
	:	

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 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Leslie B. Overman on behalf of all attorneys of record associated with Customer Number 25213.

All attorneys of record associated with Customer Number 25213 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CLEMENT SZETO
2049 MEDALLION DRIVE
UNION CITY, CA 94587

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

Applicant	: Akira Takuma	: DECISION ON REQUEST FOR
Patent Number	: 7620802	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/440,253	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **745** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAROLD L. JACKSON
JACKSON LAW CORPORATION
STE. N
14751 PLAZA DR.
TUSTIN, CA 92780

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JUN 23 2008

In re Application of

KNIGHT, Gary M.
Application No. 11/440,258
Filed: May 24, 2006
Attorney Docket No. **KNI1-013**

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 01, 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, (retirement and closing down of my office), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GARY MICHAEL KNIGHT**
4445 SIGNATURE LANE
CORONA, CA 92883

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Paper No. None

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Vladimir Marin et al. :
Application No. 11/440,276 :
Filed: June 29, 2006 :
Attorney Docket Number: COS-980 :
DIV :
Title: PROCESS FOR THE :
PREPARATION OF SUBSTITUTED :
FLUORENES :

DECISION ON PETITION UNDER 37 C.F.R. §1.182

This is a decision on the petition filed June 29, 2006, under 37 C.F.R. §1.182,

On May 24, 2006, the above-identified application was filed. On June 19, 2006, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that page forty-one of the specification appeared to have been omitted. The Notice set a two-month period for response.

On June 29, 2006, Petitioner submitted this petition, along with page forty-one of the specification and payment of the petition fee. In the petition, the following text appears:

> Applicants…request the later filing date of June 29, 2006…

Based on this text, it is clear that Petitioner accepts the date of deposit of the formerly omitted page as the filing date.

The petition is **GRANTED**.

The Office of Initial Patent Examination will be advised to process this application with a **filing date of June 29, 2006**, the date of receipt of the formerly omitted item, page forty-one of the specification, using the original application papers deposited on May 24, 2006, as well as page forty-one of the specification, submitted with this petition on June 29, 2006. **OIPE will then mail a corrected filing receipt**.

Receipt is acknowledged of the supplemental declaration which Petitioner has submitted along with this petition, as required by the notice, however it is noted that the supplemental declaration appears to be a copy of the declaration which was originally presented 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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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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	: Jen-Tsorng Chang	: DECISION ON REQUEST FOR
Patent Number	: 7630624	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/440,280	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **576** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/440,297	05/24/2006	Myoung-Kon Kim	SDIYPL.091AUS	7140

7590 11/02/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
LEIBY, CHRISTOPHER E

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
11/02/2009	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Replm. Ref: 10/30/2009 NFARMER 0012191002
DAO:111412 Name/Number:11440297
FC: 9204 $500.00 CR

Adjustment date: 10/30/2009 NFARMER
05/26/2006 SSITHIB1 00000081 11440297
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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EMISPHERE TECHNOLOGIES, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

COPY MAILED
JAN 30 2009
OFFICE OF PETITIONS

In re Patent No. 7,417,061	:	
Issue Date: August 26, 2008	:	
Application No. 11/440,332	:	ON PETITION
Filed: May 23, 2006	:	
Attorney Docket No. 01946/100F324-US2	:	

This is a decision on the petition filed October 15, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Docket No.: 01946/100F324-US2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
David Gscheidner

Patent No.: 7,417,061

Issued: August 26, 2008

For: OXADIAZOLE COMPOUNDS AND COMPOSITIONS FOR DELIVERING ACTIVE AGENTS

PETITION UNDER 37 CFR 1.183 AND REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified patent contains an error that arose from an incomplete or erroneous assignee name furnished in item 3 of PTOL-85B. Failure to include the correct assignee name on the PTOL-85B was inadvertent. The error is of a clerical or typographical nature, the correction of which does not constitute new matter or require reexamination.

In the Assignee:

Please insert –Emisphere Technologies, Inc., Tarrytown, NY--

Patentee respectfully requests that the Commissioner waive the requirements of 37 CFR 3.81 to permit the correct name of the assignee to be provided after issuance of the patent.

Adjustment date: 01/30/2009 CKHLOK
10/16/2008 INTEFSW 00000855 11440332
01 FC:1464 -130.00 OP
02 FC:1811 -100.00 OP

3312317.1 100F324-US2

01/30/2009 CKHLOK 00000008 7417061

01 FC:1808 130.00 OP
02 FC:1811 100.00 OP

Enclosed is:

(1) Evidence that the assignment was recorded before issuance of the patent;

(2) Processing fee set forth in 37 CFR 1.17(i);

(3) Fee set forth in 37 CFR 1.20(a); and

(4) Form PTO/SB/44.

Please charge our Deposit Account in the amount of $230.00 for the filing of this Petition and Request. The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Applicant respectfully requests that the petition be granted and that a Certificate of Correction be issued.

Dated: October 15, 2008

Respectfully submitted,

By /Flynn Barrison 53,970/

Flynn Barrison
Registration No.: 53,970
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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MAR 10 2010

In re Application of	:	
Anderson et al.	:	DECISION ON PETITION
Application No. 11/440,340	:	TO WITHDRAW
Filed: May 24, 2006	:	FROM RECORD
Attorney Docket No. AC-09214-US-TR	:	

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 4, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on January 20, 2010 the power of attorney to Pearne & Gordon LLP was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: WPAT, PC
2030 Main Street
Suite 1300
Irvine CA 92614

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/23/2010

Applicant	: Mark Allen Gerber	: DECISION ON REQUEST FOR
Patent Number	: 7655552	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/440,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **737** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

Mail Date: 04/20/2010

Applicant	: Frankie F. Roohparvar	: DECISION ON REQUEST FOR
Patent Number	: 7650541	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/440,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **824** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.