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SUITE 185
HOUSTON TX 77079-6895

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APR 0 2 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Milburn E. Cummins | : | |
| Application No. 11/536,260 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. GENE0001 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 28, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The 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 3746 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 05/18/2010

| | | |
|---|---|---|
| **Applicant** | : Roman Peter RAK | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7627335 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/536,268 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**CUENOT & FORSYTHE, L.L.C.**
**12230 FOREST HILL BLVD.**
**SUITE 120**
**WELLINGTON FL 33414**

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OFFICE OF PETITIONS

In re Application of
Howard Engelsen
Application No. 11/536,272
Filed: September 8, 2006
Attorney Docket No. 8175-0001

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 3, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes a copy of the applicant's birth certificate proving that he is years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2626 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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| | | |
|---|---|---|
| In re Application of | : | |
| Stephen B. Phillips | : | |
| Application No. 11/536,301 | : | DECISION GRANTING PETITION |
| Filed: September 28, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 2235.0440000/TGD/JHH | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed.

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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**HAYNES AND BOONE, LLP**
**901 MAIN STREET, SUITE 3100**
**DALLAS TX 75202**

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Robert Lance Cook et al. | : | |
| Application No. 11/536,302 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 25791.412 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING, L.L.P.**
**TODD MATTINGLY**
**1100 LOUISIANA STREET, SUITE 400**
**HOUSTON, TX 77002**

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SEAGATE TECHNOLOGY LLC
C/O WESTMAN, CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3244

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mehmet Fatih Erden | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643235 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,310 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **611** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/536,343 | 09/28/2006 | Zdenka L. Jonak | PF459C3 |

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

DATE MAILED: May 1, 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 April 27, 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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**DICKE, BILLIG & CZAJA**
**FIFTH STREET TOWERS**
**100 SOUTH FIFTH STREET, SUITE 2250**
**MINNEAPOLIS MN 55402**

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APR 22 2010

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|---|---|---|
| In re Application of | : | |
| Borghoff et al. | : | |
| Application No. 11/536,357 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | |
| Attorney Docket No. I433.252.101/14189 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed May 29, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously submitted on July 29, 2009); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 2812 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed July 29, 2009.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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**800 Superior Avenue**
**Suite 1400**
**Cleveland, OH 44114**

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| | | |
|---|---|---|
| In re Application of | : | |
| Trevor Jackson et al. | : | |
| Application No. 11/536,379 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 12873.04339 | : | FROM RECORD |
| | : | |

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 2, 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.

A courtesy copy will be mailed to the applicant.

If the attorneys noted on the request to withdraw desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted, along with a proper statement under 37 CFR 3.73(b).

There is no pending office action at this time.

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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Trevor Jackson
8562 Palomino Trail
Kirtland, OH 44094

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CAMPBELL, CA 95008

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| | | |
|---|---|---|
| In re Application of | : | |
| James R. Terrell, II | : | |
| Application No. 11/536,380 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 60751.301301 | : | FROM RECORD |
| | : | |

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Intellectual Property Law Offices has been revoked by the assignee of the patent application on May 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANTHONY C. MURABITO
C/O WAGNER, MURABITO & HALO, LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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**Joseph J. Christian**
**14th Floor**
**75 State Street**
**Albany, NY 12207**

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JAN 26 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Brian C. Len | : | |
| Application No. 11/536,417 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. LEN-0001 | : | FROM RECORD |
| | : | |

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 7, 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 David E. Rook 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. The address 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: Brian C. Len
21 C. Fairway Drive
Mechanicville, NY 12118

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/536,417 | 09/28/2006 | Brian C. Len | LEN-0001 |

**CONFIRMATION NO. 8996**

**POWER OF ATTORNEY NOTICE**

Joseph J. Christian
14th floor
75 State Street
Albany, NY 12207

*OC000000034203527*

Date Mailed: 01/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2008.

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

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**OFFICE OF PETITIONS**

In re Application of

**ARATHOON,** Williams R. et al.
Application No. 11/536,439
Filed: September 28, 2006
Attorney Docket No. **39766-0215C2**

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 03, 2008.

The request is **APPROVED**.

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

The request was signed by, Jeffrey Bernhardt on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WILLIAM R. ARATHOON**
**460 POINT SAN BRUNO BOULEVARD**
**SOUTH SAN FRANCISCO, CA 94080**

cc: **CATHERINE M. POLIZZI**
**MORRISON & FOERSTER LLP**
**755 PAGE MILL ROAD**
**PALO ALTO, CA 94304-1018**

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

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FEB 26 2008

**OFFICE OF PETITIONS**

In re Application of

**ARATHOON,** Williams R. et al.
Application No. 11/536,439
Filed: September 28, 2006
Attorney Docket No. **39766-0215C2**

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 03, 2008.

The request is **APPROVED**.

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

The request was signed by, Jeffrey Bernhardt on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WILLIAM R. ARATHOON**
**460 POINT SAN BRUNO BOULEVARD**
**SOUTH SAN FRANCISCO, CA 94080**

cc: **CATHERINE M. POLIZZI**
**MORRISON & FOERSTER LLP**
**755 PAGE MILL ROAD**
**PALO ALTO, CA 94304-1018**

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**GOODWIN PROCTER LLP**
**135 COMMONWEALTH DRIVE**
**MENLO PARK CA 94025**

| | | |
|---|---|---|
| In re Application of | : | |
| **ARATHOON,** W. Robert et al. | : | |
| Application No. 11/536,439 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **GNE-0215C3** | : | FROM RECORD |
| | : | |

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 03, 2009.

The request is **APPROVED**.

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

The request was signed by Jeffery P. Bernhardt on behalf of all attorneys of record who are associated with customer No. 35489. All attorneys/agents associated with the Customer Number 35489 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **W. ROBERT ARATHOON**
**22 MELROSE COURT**
**SAN MATEO CA 94402**

cc: **GENENTECH, INC.**
**1 DNA WAY**
**SAN FRANCISCO CA 94080**

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

| | | |
|---|---|---|
| **Applicant** | : Adam D. Dirstine | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650444 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/536,452 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 8, 2009

TO SPE OF : ART UNIT 2611 - David C. Payne

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/536,474 Patent No.: 7,386,077 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

**Antonio Johnson**

**Certificates of Correction Branch**

**(571)272-0483**

**Thank You For Your Assistance**

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

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

**Comments:** _____

AU 2611

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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Terry D. Turner | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637122 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,477 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DON D. CHA
547 BUENA VISTA ROAD
GOLDEN CO 80401

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of :
Elliott :
Application No. 11/536,478 :
Filed: 28 September, 2006 :
Attorney Docket No: CSRF-000600US :

DECISION

This is a decision on the petition filed on 29 January, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

**NOTE:**

The Revocation/Power of Attorney submitted on 29 January, 2010, has been accepted and entered.

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.[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 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 C.F.R. §1.137(b) was unintentional, Petitioner **must** notify the Office.

[1] See 37 C.F.R. §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).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

*Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).*

## BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the Requirement for Restriction mailed on 23 June, 2009, with reply due absent extension of time on or before 23 July, 2009.

The application went abandoned by operation of law after midnight 23 July, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 29 January, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an Election and made a statement of unintentional delay.

*As noted above, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.*

*Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.*[2] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

*If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner* ***must*** *notify the Office.*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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[2] See 37 C.F.R. §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).

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.[3]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[5]))

### 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.

## CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1641 for further processing in due course.

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

[4] 35 U.S.C. §133 provides:

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

[5] Therefore, by example, an 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.

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[6]) 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

[6] 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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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/23/2010

| | | |
|---|---|---|
| **Applicant** | : Luke Surazski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606183 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,548 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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**OFFICE OF PETITIONS**

Applicant: Leung, et al.
Appl. No.: 11/536,551
Filing Date: Sept. 28, 2006
Title: PROCESS FOR PRODUCING POLYPEPTIDES
Attorney Docket No.: P2019R1C!
Pub. No.: US 2007/0026496-A1
Pub. Date: February 1, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 8, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 13 wherein "glpt" was erroneously printed as "gipt".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in claim 13 noted by requestor in the specification are not material Office errors under 37 CFR 1.221. The text was not printed correctly due to the quality of the text. The errors noted by requestor in the equations in this published application are due to the quality of the text, as the font is very small. The quality of the text is poor, as it is small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. The text of the application is very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

[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).

Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

Mark 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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

**MAILED**

MAY 17 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Annest, et al. | : | |
| Application No. 11/536,553 | : | ON PETITION |
| Filed: September 28, 2006 | : | |
| Attorney Docket No. 026289-000100US | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 22, 2010.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Office action mailed June 25, 2009. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on July 26, 2009. The Office mailed a Notice of Abandonment on January 27, 2010.

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

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 application is being forwarded to Group Art Unit 3766 for consideration of the Election, filed February 22, 2010.

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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Minggao YAO | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643253 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,558 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**MINNEAPOLIS MN 55440-1022**

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| | | |
|---|---|---|
| In re Application of | : | |
| **WHITEHURST**, et al. | : | |
| Application No. 11/536,565 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **17991-034002/05-00705-02** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "ownership transfer" does not meet any of the conditions set forth in 37 CFR 10.40.

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

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GKN Driveline/TTG
c/o Kristin L. Murphy
39533 Woodward Avenue, suite 140
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : BRUNO FEICHTER | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637819 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,586 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/536,587 | 09/28/2006 | Thomas A. Rice | 10060336-1 | 9232 |

7590 12/11/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER |
|---|
| THOMSON, WILLIAM D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2100 | |

| 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 Harris

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 WFARMER
09/29/2006 INTERSW 00000016 591078 11536587
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**MAILED**

FEB 22 2010

OFFICE OF PETITIONS

IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

| | | |
|---|---|---|
| In re Application of | : | |
| Jerry Rufener | : | |
| Application No. 11/536,618 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 158556-0004 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2009.

The request is **APPROVED**.

The request was signed by Norman Brunell on behalf of the practitioners of record associated with Customer Number 29000.

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

All future correspondence will be directed to inventor Jerry Rufener at the first address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Jerry Rufener
P.O. Box 707
Cool, CA 95614

cc: Xanthos Systems LLC
2893 Sunrise Boulevard, Suite 206
Rancho Cordova, CA 95742

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/536,618 | 09/28/2006 | Jerry RUFENER | 158556-0004 |

**CONFIRMATION NO. 9280**

**POWER OF ATTORNEY NOTICE**

29000
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

*OC000000040176533*

Date Mailed: 02/22/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2009.

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

/idingle/

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

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/536,618 | 09/28/2006 | Jerry RUFENER | 158556-0004 |

**CONFIRMATION NO. 9280**

**POA ACCEPTANCE LETTER**

JERRY RUFENER
P.O. BOX 707
COOL, CA 95614

*OC000000040176534*

Date Mailed: 02/22/2010

# NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

---

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

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122006

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

DEC 22 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,646
Filed: September 29, 2006
Docket: 076376.0382
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner; and

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation; and

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and II.6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 A1 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2006 081806 filed March 23, 2006; JP2006 064867 filed March 23, 2006; JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 27 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a particular wall having a first end and a second end opposite the first end" and "an ink supply portion positioned at the particular wall and adjacent to the second end of the particular wall." The supporting statements refer to the following portions of the

disclosure as support for these recitations: "At least Paragraphs 0004 and 0020; and Figure 2" and "At least Paragraphs 0022 and 0031; and Figure 2," respectively. Paragraph 0004 is the Summary of the Invention section of the specification and does not refer to any elements of the drawings that illustrate the claimed particular wall. Paragraph 0020 does not mention any particular wall or the location of the ink supply portion 120 relative to any other structure of the ink cartridge. By not making specific reference to the appropriate terminology and reference numerals used in the specification and drawing figures, petitioner renders the showing of support confusing. The general reference to the paragraphs in the specification and drawings to show support for limitations that are specifically described elsewhere in the specification and in the drawings by reference numerals is a failure to comply with conditions of II.6.5.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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

FEB - 8 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,646
Filed: September 29, 2006
Docket: 076376.0382
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed January 22, 2007. The Response is being treated as a petition requesting reconsideration of the previous decision of December 22, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d).

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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

NOV 13 2006

In re Application of:
Wataru Sugiyama et al.
Serial No.: 11/536,647
Filed: September 29, 2006
Docket: 076376.0383
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and II.6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; JP2006 081806 filed March 23, 2006; and JP2005 345866 filed November 30, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 26 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a recess" in the third wall and claim 10 recites "a protrusion" in the third wall. The supporting statements refers to the following portions of the disclosure as support for these recitations: "At least Paragraphs 0022 and 0040; and Figures 1 and 2." In paragraphs

0022 and 0040, the recess is described as recess 502 and the protrusion as 504. By not making specific reference to the appropriate terminology and reference numerals used in the specification and drawing figures, petitioner renders the showing of support confusing, even to petitioner in interpreting the claims for the purpose of identifying the limitations of the claims disclosed by the references. For example, petitioner's interpretation of the prior art to Barinaga et al. appears to read the third and fourth walls differently from the third and fourth walls of the invention claimed in claims 1 and 10. If the third and fourth walls of claim 1 (and of claim 10) are interpreted in view of the instant applications Figs 1 and 2 in the same manner as petitioner reads claim 1 (and claim 10) on the drawings of Barinaga et al., the instant specification and drawings would not provide proper support under 35 USC 112, first paragraph, for claim 1 (and for claim 10). The general reference to the same paragraphs in the specification and same drawings to show support for two different recitations in the claim is a failure to comply with conditions of II.6.5, especially when the specification and drawings employ reference numerals to describe and show the recess, the protrusion, and other features recited in the claims.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
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JAN 1 2 2007

In re Application of:
Wataru Sugiyama et al.
Serial No.: 11/536,647
Filed: September 29, 2006
Docket: 076376.0383
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 8, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of November 13, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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NOV 13 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,652
Filed: September 29, 2006
Docket: 076376.0406
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and 6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 , (herein after "'482 publication") which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253, filed September 20, 2006, and under 35 USC 119(a)-(f) to foreign applications JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; JP2006 081806 filed March 23, 2006; JP2006 064973 filed March 9, 2006; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 28 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific language and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a first case comprising a wall having a first end ... wherein ... each of the first center and second center is offset from each of the first center line and the second center

line; a second case enclosed within the first case;..." Petitioner provides the following statements "At least Paragraphs 0022 and 0023; and Figures 11a-11d." and "At least paragraphs 0004, 0019, and 0023; and Figure 7," as the showing of support for the recited first case and second case, respectively. A brief review of Figs. 11a and 11b indicates that the first case 200 does not show that "each of the first center and the second center is offset from each of the first center line and the second center line" as recited in claim 1. It cannot be ascertained how Figs 22a and 11b and their description in paragraphs 0022 and 0023 provide support for the offset feature recited in claim 1. Furthermore, for the recitation of "a second case enclosed within the first case" of claim 1, support is stated as being provided by "At least paragraphs 0004, 0019 and 0023; and Figure 7." Besides mentioning that a second case is enclosed within the first case in paragraph 0004, which is part of the summary of the invention, it cannot be ascertained where the recited second case is described and shown in paragraphs 0019, 0023, and Fig. 7. Petitioner uses general reference to the various paragraphs in the specification and drawings to show support under 35 USC 112, first paragraph, for specific recitations in the claims. This general reference does not comply with conditions of II.6.5, especially when the referenced paragraphs in the specification and drawings do not clearly describe or show the claimed features, for example, there is no description or showing what the second case looks like and how it is enclosed within the first case of claim 1.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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JAN 12 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,652
Filed: September 29, 2006
Docket: 076376.0406
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 8, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of November 13, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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NOV 13 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,653
Filed: September 29, 2006
Docket: 076376.0407
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and 6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; JP2006 081806 filed March 23, 2006; JP2006 063251 filed March 8, 2006; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 12 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a first wall having a first end and a second end opposite the first end" and "a second wall connected to an perpendicular to the first wall." Petitioner provides the following statements "At least Paragraphs 0004, 0023, and 0024; and Figures 2 and 7" and "At least paragraphs 0004, 0023, and 0024; and Figures 2 and 7," as the showing of support for the recited first wall and second wall, respectively. The general reference to the same paragraphs in

the specification and same drawings to show support for two different recitations in the claim is a failure to comply with conditions of II.6.5, especially when the specification and drawings employ reference numerals to describe and show the first wall, the second wall and other features recited in the claims.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Henry Phan

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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WASHINGTON DC 20004-2400

JAN 1 2 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,653
Filed: September 29, 2006
Docket: 076376.0407
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 8, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of November 13, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-QAS
Technology Center 2800 - Semiconductors,
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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Shingo HATTORI et al :
Application No. 11/536,653 : DECISION GRANTING PETITION
Filed: September 29, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 076376.0407 :

This is a decision on the petition, filed May 16, 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 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This matter is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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NOV 13 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,654
Filed: September 29, 2006
Docket: 076376.0408
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and 6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 , (herein after "'482 publication") which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253, filed September 20, 2006, and under 35 USC 119(a)-(f) to foreign applications JP2005 377987 filed December 28, 2005; JP2005 342695 filed November 28, 2005; JP2005 342697 filed November 28, 2005; JP2006 081806 filed March 23, 2006; JP2006 063250 filed March 8, 2006; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686, a certified translation of this document must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application.

Regarding the Detailed Explanation of Patentability, it is stated that the cited prior art, either taken alone or in combination, does not render claims 1-20 obvious under 35 USC § 103(a) at least because none of the references discloses that the ink supply portion and the protruding member both extend from the same wall of the ink cartridge in a predetermined direction, and the protruding member extends further from the wall than the ink supply portion extends from the wall. This is conclusory and is not a basis for making a proper legal conclusion of obviousness. The conclusion does not satisfy the requirement of 37 CFR 1.11(b) and (c). Petitioner must address the issue of why would it not have been obvious to modify or combine the teaching of the ink supply portion extending from the wall in one reference with the teaching of providing a protrusion of another reference. As such, the lack of a detailed explanation of how

each of the claims are patentable over the '482 publication and why it would not have been obvious to a person having ordinary skill in the art to combine the discussed prior art to make the claims unpatentable under 35 USC 103(a) is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 28 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a first case comprising a wall having a first end ... wherein ... each of the first center and second center is offset from each of the first center line and the second center line; a second case enclosed within the first case;..." Petitioner provides the following statements "At least Paragraphs 0022 and 0023; and Figures 11a-11d." and "At least paragraphs 0004, 0019, and 0023; and Figure 7," as the showing of support for the recited first case and second case, respectively. A brief review of Figs. 11a and 11b indicates that the first case 200 does not show that "each of the first center and the second center is offset from each of the first center line and the second center line" as recited in claim 1. It cannot be ascertained how Figs 22a and 11b and their description in paragraphs 0022 and 0023 provide support for the offset feature recited in claim 1. Furthermore, for the recitation of "a second case enclosed within the first case" of claim 1, support is stated as being provided by "At least paragraphs 0004, 0019 and 0023; and Figure 7." Besides mentioning that a second case is enclosed within the first case in paragraph 0004, which is part of the summary of the invention, it cannot be ascertained where the recited second case is described and shown in paragraphs 0019, 0023, and Fig. 7. Petitioner uses general reference to the various paragraphs in the specification and drawings to show support under 35 USC 112, first paragraph, for specific recitations in the claims. This general reference does not comply with conditions of II.6.5, especially when the referenced paragraphs in the specification and drawings do not clearly describe or show the claimed features, for example, there is no description or showing what the second case looks like and how it is enclosed within the first case of claim 1.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,654
Filed: September 29, 2006
Docket: 076376.0408
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 8, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of November 13, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,658
Filed: September 29, 2006
Docket: 076376.0409
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II.6.4 through II.6.6 above. However, the petition does not meet condition II.6.3 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; JP2006 081806 filed March 23, 2006; JP2005 284646 filed September 20, 2005; and JP2006 064866 filed March 23, 2006. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

It should be noted that English translations of the Japanese language publications cited with the Information Disclosure Statement, or pertinent portions thereof, were not provided such that their disclosure may be readily available for review during examination.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hieu H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JAN 1 2 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,658
Filed: September 29, 2006
Docket: 076376.0409
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 8, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of November 13, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-QAS
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NOV 13 2006

In re Application of:
Toyonori Sasaki
Serial No.: 11/536,661
Filed: September 29, 2006
Docket: 076376.0410
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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NOV 13 2006

In re Application of:
Toyonori Sasaki
Serial No.: 11/536,665
Filed: September 29, 2006
Docket: 076376.0411
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the under signed at (571) 272-1606.

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In re Application of:
Toyonori Sasaki et al.
Serial No.: 11/536,668
Filed: September 29, 2006
Docket: 076376.0412
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323). It is noted that English translations of the foreign publications cited in the IDS were not provided. However, based on the nature of the invention being claimed, the relevant disclosures of the foreign publications can be readily ascertained from the drawings and from their discussions in the accelerated examination support document.

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election

without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,671
Filed: September 29, 2006
Docket: 076376.0413
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323). It is noted that English translations of the foreign publications cited in the IDS were not provided. However, based on the nature of the invention being claimed, the relevant disclosures of the foreign publications can be readily ascertained from the drawings and from their discussions in the accelerated examination support document.

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election

without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-QAS
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DEC - 6 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,674
Filed: September 29, 2006
Docket: 076376.0414
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.4 and II.6 above. However, the petition does not meet conditions II.5 above.

Regarding the conditions set forth in II.5.1 above, the petition fails to provide a preexamination search that is directed to the method of making the ink cartridge as set forth in claims 9 through 11. Claim 9 is directed to a method of manufacturing an ink cartridge using several molds to make the various case members of the ink cartridge. A proper search of a method for molding should at least include a search in US class 264. Claims 10 and 11set forth the steps of connecting/assembling the molded case members. A proper search for a claim directed to a method of assembling parts into a final product claims should include at least US class 29. Since at least a search in the most pertinent areas in the US patent classification system for method claims 9-11 was not indicated in the Pre-Examination Search Document as having been searched, it cannot be determined whether the petition provides the references that are most closely related to the subject matter of claims 9-11.

In view of the above, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

It is noted that if, upon conducting further search, new prior art is discovered (prior art not currently of record), it will be necessary to supplement the Accelerated Examination Support Document to include the discussion of the new prior art as required in section II.6 above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JAN 12 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,674
Filed: September 29, 2006
Docket: 076376.0414
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed December 21, 2006. The Response is being treated as a petition requesting reconsideration of the previous decision of December 6, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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DEC - 6 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,677
Filed: September 29, 2006
Docket: 076376.0415
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323). It is noted that English translations of the foreign publications cited in the IDS were not provided. However, based on the nature of the invention being claimed, the relevant disclosures of the foreign publications can be readily ascertained from the drawings and from their discussions in the accelerated examination support document.

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election

without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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DEC 22 2006

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,680
Filed: September 29, 2006
Docket: 076376.0416
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner; and

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation; and

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and II.6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 A1 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2006 081806 filed March 23, 2006; JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 20 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a first case" and "a second case." The supporting statements refers to the following portions of the disclosure as support for these recitations: "At least Paragraphs 0004 and 0023; and Figures 1 and 7" and "At least Paragraph 0022 and Figure 2," respectively.

In paragraphs 0022 and 0023, the case is described as comprising a first case member 210 and a second case member 220. By not making specific reference to the appropriate terminology and reference numerals used in the specification and drawing figures, petitioner renders the showing of support confusing. The general reference to the same paragraphs in the specification and same drawings to show support for limitations that are specifically described in the specification and shown in the drawings using reference numerals is a failure to comply with conditions of II.6.5.

It is also noted that claims 1-12 appear to recite an invention that is patentably distinct from claims 13-17 since claims 1-12 recite a translucent portion and the signal blocking portion of the ink cartridge not present in claims 13-17 while claims 13-17 recite the specifics of the air intake portion not set forth in claims 1-12.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, TQuality Assurance Specialist
Technology Center 2800 - Semiconductors,
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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,680
Filed: September 29, 2006
Docket: 076376.0416
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed January 10, 2007. The Response is being treated as a petition requesting reconsideration of the previous decision of December 22, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,681
Filed: September 29, 2006
Docket: 076376.0417
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation; and

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.4 and II.6 above. However, the petition does not meet conditions II.5 above.

Regarding the conditions set forth in II.5.1 above, the petition fails to provide a preexamination search that is directed to the subject matter of independent claim 7 and its dependent claims 9 through 11. Claim 7 recites an ink cartridge with a first case member comprising a first wall with an air intake portion and a second case member that is opposite to the first wall, and a support member connected to the interior of the second wall. The search logic listed under the "Database Searches" reveals that the search was limited to ink cartridges with features for indicating the ink level in the cartridge (level L2) and to the translucent or transparent portion (level L3). However, claim 7 is not limited to a cartridge with a feature for indicating the ink level or a cartridge with a translucent portion. Claim 7 is limited to a cartridge with a support member that supports a movable member with the support member being connected to the interior surface of a second wall of a second case member with the second wall being opposite to a first wall of a first case member. Based on the search logic, it is not clear that the search was directed to the broad scope of claim 7 and its dependent claims 8 through 10. Furthermore, based on the cited prior art, it appears that the search was directed to ink cartridges with a transparent or translucent portion for the ink level indicator. Since the search logic fails to indicate that the broad scope of claim 7 has been searched in the Pre-examination Search Document, it cannot be determined whether the petition provides the references that are most closely related to the subject matter of claims 9 through 10.

In view of the above, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

It is noted that if, upon conducting further search, new prior art is discovered (prior art not currently of record), it will be necessary to supplement the Accelerated Examination Support Document to include the discussion of the new prior art as required in section II.6 above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, IT-Quality Assurance Specialist
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In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,681
Filed: September 29, 2006
Docket: 076376.0417
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed January 9, 2007. The Response is being treated as a petition requesting reconsideration of the previous decision of December 22, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

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| In re Application of:<br>Shingo Hattori et al.<br>Serial No.: 11/536,683<br>Filed: September 29, 2006<br>Docket: 076376.0425<br>Title: INK CARTRIDGES | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102 |

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 CFR 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner; and

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation; and

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.5, II.6.1, II.6.2, II,6.4 and II.6.6 above. However, the petition does not meet conditions II.6.3 and II.6.5 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to provide a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Specifically, the petition fails to discuss how the claims are patentable over US patent publication No. US2006/0164482 A1 (hereinafter "482 publication"), which is the July 27, 2006 publication of US application No. 11/391,644 filed on March 29, 2006. It appears from the record that petitioner does not provide a detailed explanation because petitioner asserts that the '482 publication is not prior art against petitioner. However, the evidence of record does not support this assertion. Specifically, petitioner has not adequately provided proper reasons and supporting facts to conclude that the '482 publication is in fact not eligible as prior art against the claims of the instant application. Besides its July 27, 2006 publication date and its March 29, 2006 filing date, the '482 publication claims benefit under 35 USC 120 to several earlier filed US patent applications. The petitioner fails to state a reason for considering the '482 publication not to be entitled to an effective filing date earlier than March 29, 2006. Furthermore, the instant application was filed on September 29, 2006, and claims priority under 35 USC 119(e) to US provisional application No. 60/826,253 filed September 20, 2006 and under 35 USC 119(a)-(f) to foreign applications JP2006 081806 filed March 23, 2006; JP2005 377987 filed December 28, 2005; JP2005 342697 filed November 28, 2005; and JP2005 284646 filed September 29, 2005. In order to establish that the instant application is entitled to at least the date of November 28, 2005, as asserted, a certified English translation of JP 2005 342697 must be submitted to establish that the claimed invention finds support in this foreign application. Also, to be entitled to the date of the priority documents JP2005-342686 and JP2005 342697, a certified translation of these documents must be submitted. Petitioner has not submitted sufficient evidence, such as a certified translation of the JP 2005 342697 application, to show that the '482 publication is not eligible as prior art against the claims in the instant application. Accordingly, the '482 publication is eligible as prior art against the claims of the instant application. As such, the lack of a detailed explanation of how each of the claims are patentable over the '482 publication is a failure to comply with the conditions of II.6.3.

Regarding the conditions set forth in II.6.5 above, in section "Showing of Support of Each Claim Limitation" starting from page 14 of the petition, the showing of support for the claim limitations is a broad reference to various paragraphs in the specification and drawing figure(s). While the specification and the drawings use specific languages and reference numerals to describe and point to various features of the claimed invention, petitioner provides a showing of support by broadly referring to the various paragraphs in the specification and drawing figures. For example, claim 1 recites "a first case" and "a second case." The supporting statements refers to the following portions of the disclosure as support for these recitations: "At least Paragraphs 0004 and 0023; and Figures 2 and 7" and "At least Paragraphs 0022 and 0048; and Figures 2 and

10," respectively. In paragraphs 0022 and 0023, the case is described as comprising a first case member 210 and a second case member 220. By not making specific reference to the appropriate terminology and reference numerals used in the specification and drawing figures, petitioner renders the showing of support confusing. The general reference to the same paragraphs in the specification and same drawings to show support for limitations that are specifically described in the specification and shown in the drawings using reference numerals is a failure to comply with conditions of II.6.5.

Therefore, the petition fails to meet all the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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1299 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004-2400

JAN 12 2007

In re Application of:
Shingo Hattori et al.
Serial No.: 11/536,683
Filed: September 29, 2006
Docket: 076376.0425
Title: INK CARTRIDGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This communication is a reply to the "Response to Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102" filed January 10, 2007. The Response is being treated as a petition requesting reconsideration of the previous decision of December 22, 2006, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed September 29, 2006.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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CHICAGO, IL 60661

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Ahmadreza Rofougaran | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634246 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,688 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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 PTA days determined by the recalculation.

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

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

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

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

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PATENT LAW OFFICE OF D.R. HASZKO
c/o Dennis R. Haszko
499 MOSHER HILL ROAD
FARMINGTON, ME 04938

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Jody DEFAZIO | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7661010 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,709 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Chiaki Domoto | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623199 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,721 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
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The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

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| In re Application of | : | |
| CHEN, GANG | : | |
| Application No.: 11/536734 | : | DECISION ON |
| Filing or 371(c) Date: September 29, 2006 | : | PETITION |
| Attorney Docket Number: **707407US1** | : | |

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed August 18, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed April 3, 2009.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756 - 1499.

Kendrick Sprull
Application Assistance Unit
Office of Data Management

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MAIL CODE: D303A
BRIDGEWATER, NJ 08807

Mail Date: 04/20/2010

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| **Applicant** | : Stephanie Deprets | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632952 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,757 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
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The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 101
CLEARWATER FL 33755

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Jose Angel Olalde | : | |
| Application No 11/536786 | : | DECISION |
| Filing or 371(c) Date: 09/29/2006 | : | ON PETITION |
| Title of Invention: | : | |
| MULTIPLE SCLEROSIS | : | |
| SYNERGISTIC PHYTO- | : | |
| NUTRACEUTICAL COMPOSITION | : | |

This is a decision on the "Petition to Withdraw Holding of Abandonment," filed September 20, 2007. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed January 24, 2007. The Office communication set a one (1) month period for reply. No reply having been received, this application became abandoned on February 25, 2007. A Notice of Abandonment was mailed August 23, 2007.

The present petition

Applicant files the present petition and asserts that a timely response was filed on February 13, 2007. Applicant provides that the application number on the response inadvertently listed application number 11/674542.

A review of application no. 11/674,542 reveals that the response was placed therein on February 13, 2007. A further review of the response filed February 13, 2007 in 11/674,542 reveals that the correct inventor, attorney docket number, title of the invention, Technology Center Art Unit and Examiner were included on the response.

In view of the above, it is apparent that the response to Office communication was filed in this Office on February 13, 2007, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn.

The application will be referred to the Technology Center Art Unit 1655 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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P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

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| **Applicant** | : Santiago Iriarte Garcia | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7573325 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,799 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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PITTSFIELD MA 01201-3697

**MAILED**

MAY 21 2010

OFFICE OF PETITIONS

In re Application of
Yogendrasinh Bharatsinh Chauhan et al.
Application No. 11/536,821
Filed: September 29, 2006
Attorney Docket No.: **191313-2**

ON PETITION

This is a decision on the petition filed March 30, 2010, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement sent via electronic email notification on September 2, 2009 set the longer of one month or thirty days as the period for reply. No response to the September 2, 2009 Restriction Requirement having been timely filed, the application became abandoned October 6, 2009. Accordingly, a Notice of Abandonment was was sent via email notification on March 19, 2010

The petition fee in the amount of $1620.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed March 30, 2010 will be referred to Technology Center 1794 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of
Knox et al.
Application No. 11/536,826
Filed: September 29, 2006
Attorney Docket No. 218216-02

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2010, to revive the application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action issued August 20, 2009. The Office action set a shortened statutory period for reply of three (3) months or thirty (30) days, whichever was longer, from the mailing date of the Office action. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned at midnight on November 23, 2009. A Notice of Abandonment was mailed on March 10, 2010.

The instant petition requests revival of the application.

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

1) The reply required to the outstanding Office action or notice, unless previously filed,
2) The petition fee,
3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

Petitioner has submitted a reply to the non-final Office and has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Telephone inquiries concerning this decision should be directed to Shirene Willis Brantley at (571) 272-3230, or in her absence, Tim Wollein at (571) 270-5515.

After the mailing of this decision, the file will be referred to Technology Center AU 3754 for consideration of the amendment filed on April 23, 2010.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MYERS WOLIN, LLC
100 HEADQUARTERS PLAZA
NORTH TOWER, 6TH FLOOR
MORRISTOWN NJ 07960-6834

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JUN 20 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Raymond A. Liberatore | : | |
| Application No. 11/536,851 | : | DECISION GRANTING PETITION |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.313(c)(3) |
| Attorney Docket No. LIBE 56A | : | |

This is a decision on the petition under 37 CFR 1.313(c)(3), filed June 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

Accordingly, the above-identified application is withdrawn from issue in favor of Application No. 12,135,121, and the abandonment is hereby recognized.

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

Sherry D. Brinkley
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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www.uspto.gov

Scott Faber, Esq.
Varian Semiconductor Equipment Associates, Inc
35 Dory Road
Gloucester, MA 01930

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Anthony Renau | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7579605 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/536,872 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **494** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 ESTEE LAUDER COS, INC
155 PINELAWN ROAD
STE 345 S
MELVILLE NY 11747

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JUN 29 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Chen et al. | : | |
| Application No. 11/536885 | : | DECISION DISMISSING |
| Filing or 371(c) Date: 09/29/2006 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| COMPRISING HYPSIZYGUS | : | |
| ULMARIUS EXTRACT | : | |

This is in response to a"Petition Under 37 C.F.R 1.47", filed April 24, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The petition is properly treated under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 29, 2006, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on October 27, 2006, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the instant petition in response to the Notice, along with an oath/declaration executed by two of three inventors. A review of the oath/declaration reveals that the residence (city and state), and the mailing address of nonsigning inventor Stamets is missing. A review of the application file also reveals that no Application Data Sheet ("ADS"), has been filed in the application.

Applicable law, Rules and/or MPEP

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

the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

37 CFR § 1.63, Oath or declaration provides, in relevant part:

> § 1.63 Oath or declaration.
> (c) Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:
> (1) The 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; and

As to item (2), a Supplemental Oath or Declaration or ADS identifying mailing address, and the residence, if the nonsigning inventor lives at a location which is different from where the inventor customarily receives mail, is required.

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

| | |
|---|---|
| By mail: | Director for Patents<br>PO Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-8300<br>Attn: Office of Petitions |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

Telephone inquiries concerning this matter should 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
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THE ESTEE LAUDER COS, INC
155 PINELAWN ROAD
STE 345 S
MELVILLE NY 11747

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JUL 3 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of: | : | |
| Chen et al. | : | |
| Application No. 11/536885 | : | DECISION NOTING |
| Filing or 371(c) Date: 09/29/2006 | : | JOINDER OF INVENTOR |
| Title of Invention: | : | |
| COMPRISING HYPSIZYGUS | : | |
| ULMARIUS EXTRACT | : | |

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(a), filed July 31, 2007, noting the joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being referred to the Office of Patent Application Processing for continued processing in the normal course of business.

Telephone inquiries related to this decision may 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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**Stephen B. Salai, Esq.**
**Harter Secrest & Emery LLP**
**1600 Bausch & Lomb Place**
**Rochester NY 14604-2711**

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MAR 17 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Richard C. VITO | : | |
| Application No. 11/536,945 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. 93403.000003 | : | |

This is a decision on the petition, filed October 5, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed on February 6, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before May 7, 2009.

Petitioner states that a timely reply in the form of Response to the Office Action dated February 6, 2009 was timely filed on August 6, 2009, with the appropriate request for a three (3) month extension of time.

A review of the record reveals that a Response to the Office Action dated February 6, 2009, with the appropriate request for a three (3) month extension of time, is located in the Office's Image File Wrapper System.

As such, the papers filed on August 6, 2009, constituted a timely response to the non-final Office action mailed on February 6, 2009.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

This application is referred to Technology Center Art Unit 3632 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

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4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

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JUL 1 5 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| W. Robert Arathoon, et al. | : | |
| Application No. 11/536,951 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 39766-0215-R2C2.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 January 8, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on February 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CATHERINE M. POLIZZI
MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/536,951 | 09/29/2006 | W. Robert Arathoon | 146392003702 |

**CONFIRMATION NO. 9742**

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

**POA ACCEPTANCE LETTER**

*OC000000030842948*

Date Mailed: 07/08/2008

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

---

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

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|---|---|---|
| In re Application of | : | |
| W. Robert Arathoon, et al. | : | |
| Application No. 11/536,951 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 146392003702 | : | FROM RECORD |
| | : | |

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 24, 2008.

The request is **APPROVED**.

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

The request was signed by Catherine M. Polizzi on behalf of all attorneys of record who are associated with customer No. 25226.

All attorneys/agents associated with the Customer Number 25226 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: GENENTECH, INC
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

cc: GINGER DREGER
GOODWIN PROCTER, LLP
181 LYTTON AVENUE
PALO ALTO, CA 94301

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 |
|---|---|---|---|
| 11/536,951 | 09/29/2006 | W. Robert Arathoon | 146392003702 |

**CONFIRMATION NO. 9742**

**POWER OF ATTORNEY NOTICE**

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

*OC000000030843117*

Date Mailed: 07/08/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2008.

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

/amwise/

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

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**GOODWIN PROCTER LLP**
**135 COMMONWEALTH DRIVE**
**MENLO PARK CA 94025**

| | | |
|---|---|---|
| In re Application of | : | |
| **ARATHOON,** W. Robert et al. | : | |
| Application No. 11/536,951 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **GNE-0215R2C2** | : | FROM RECORD |
| | : | |

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 03, 2009.

The request is **APPROVED**.

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

The request was signed by Jeffery P. Bernhardt on behalf of all attorneys of record who are associated with customer No. 35489. All attorneys/agents associated with the Customer Number 35489 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **W. ROBERT ARATHOON**
**22 MELROSE COURT**
**SAN MATEO CA 94402**

cc: **GENENTECH, INC.**
**1 DNA WAY**
**SAN FRANCISCO CA 94080**

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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

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| | |
|---|---|
| In re Application of | : |
| Karunasiri | : |
| Application No. 11/536,973 | : |
| Filed: September 29, 2006 | : Decision On Petition |
| For: Methods and Apparatus for the On-Site | : To Make Special Under |
| Production of Hydrogen Peroxide | : 37 CFR 1.02 |
| Attorney Docket No. 2512-00200 | : |
| Pub. No. US 2007/0074975 A1 | : |
| Publication Date April 5, 2007 | : |

This is a decision on the petition titled "Petition To Remove Published Application From USPTO Website" which is being treated as a petition under 37 CFR 1.102 and 37 CFR 1.181, received on May 22, 2007, to make the above-identified application special in view of a telephone call with Mr. T. Westby on May 31, 2007.

The petition is **GRANTED**.

Due to the publication of the above-identified application caused by the Office's improper processing of the application, the petition to treat the application as special is granted.

Inquiries concerning this decision should be directed to Mark O. Polutta at 571-272-7709.

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 1742 for action on the merits commensurate with this decision.

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

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**DRIGGS, HOGG, DAUGHERTY**
**& DEL ZOPPO CO., L.P.A.**
**38500 CHARDON ROAD**
**DEPT. LEN**
**WILLOUGHBY HILLS, OH 44094**

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JUN 09 2008

| | | |
|---|---|---|
| In re Application of<br>Timothy S. FARROW et al.<br>Application No. 11/536,977<br>Filed: September 29, 2006<br>Attorney Docket No. RPS920061021US1-LEN106470 | :<br>:<br>:<br>:<br>: | DECISION ON PETITION |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 18, 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 December 19, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration and replacement drawings; (2) the petition fee of $1540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of October 18, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Lloyd Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7625680 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/536,991 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

| | |
|---|---|
| In re Application of<br>Jeffrey Sullivan, Benyamin Buller, Eugene Mirro<br>and William Eckes<br>Application No.11/537,054<br>Filed: September 29, 2006<br>Attorney Docket Number:<br>APPM/010513/Mask/ETEC/ARN<br>Title of Invention: Trajectory Mapping for Improved Motion-system Jitter While Minimizing Tracking Error | DECISION GRANTING STATUS UNDER 37 CFR 1.47(a) |

This is in response to the petition under 37 CFR 1.47(a), filed April 17, 2007.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Mirro can not be reached or located and diligent effort has been used to locate the inventor. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor.
The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eugene Mirro, Jr.
15051 Edgemoor Street
San Leandro, CA 94579

COPY MAILED

MAY 11 2007

OFFICE OF PETITIONS

In re Application of
Jeffrey Sullivan, Benyamin Buller, Eugene Mirro and William Eckes
Application No.11/537,054
Filed: September 29, 2006
Attorney Docket Number: APPM/010513/Mask/ETEC/ARN
Title of Invention: Trajectory Mapping for Improved Motion-system Jitter While Minimizing Tracking Error

: LETTER

Dear Mr. Mirro :

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056
ATTN: Keith M. Tackett

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

WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kenji Suzuki | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7605078 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,058 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **211** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

**Senniger Powers LLP (SGM)**
**100 North Broadway**
**17th Floor**
**St. Louis, MO 63102**

COPY MAILED
JAN 20 2009

| | | |
|---|---|---|
| In re Application of | : | |
| Nathan Zenser et al. | : | |
| Application No. 11/537,064 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. SIG074/2 | : | |

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 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 May 5, 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 June 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and election, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly the amendment and election is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 1656 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/537,064 | 09/29/2006 | Nathan Zenser | SIG074/2 |

**CONFIRMATION NO. 9895**

**POA ACCEPTANCE LETTER**

59609
SENNIGER POWERS LLP (SGM)
100 NORTH BROADWAY
17TH FLOOR
ST. LOUIS, MO 63102

*OC000000033872550*

Date Mailed: 01/01/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/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

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/537,087 | 09/29/2006 | Ramin Samadani | 200504782-1 | 9924 |

7590 04/17/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

| EXAMINER |
|---|
| HOFSASS, JEFFERY A |

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

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/17/2008 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management



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
www.uspto.gov

PARKS KNOWLTON LLC
1117 PERIMETER CENTER WEST
SUITE E402
ATLANTA GA 30338

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of: | : | |
| Cash et al. | : | |
| Application No. 11/537090 | : | DECISION GRANTING |
| Filing or 371(c) Date: 09/29/2006 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| LOCKING MECHANISM FOR | : | |
| SECURING A MEMBER TO | : | |
| A CONVEYOR | : | |

This Decision is in response to the "Petition for Filing by Other than all the Inventors Under 37 CFR 1.47(a)", filed April 19, 2007, 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, Keenan Haley, 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 Technology Center Art Unit 3721 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
www.uspto.gov

MR. KEENAN HALEY
1555 HOLCOMB BRIDGE ROAD
APARTMENT E
NORCROSS, GA 30092

**COPY MAILED**

JUN 29 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Cash et al. | : | |
| Application No. 11/537090 | : | DECISION GRANTING |
| Filing or 371(c) Date: 09/29/2006 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| LOCKING MECHANISM FOR | : | |
| SECURING A MEMBER TO | : | |
| A CONVEYOR | : | |

Dear Mr. Haley:

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: PARKS KNOWLTON LLC
1117 PERIMETER CENTER WEST
SUITE E402
ATLANTA GA 30338

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Mark Anthony Mueller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7631500 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,100 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **741** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**BELASCO, JACOBS & TOWNSLEY LLP**
**HOWARD HUGHES CENTER**
**6100 CENTER DRIVE**
**SUITE 630**
**LOS ANGELES CA 90045**

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MAY 21 2008

OFFICE OF PETITIONS

In re Application of
**FELDMAN,** Viktor et al.
Application No. 11/537,120
Filed: September 29, 2006
Attorney Docket No. **06-376-B**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before January 07, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed October 05, 2007. Accordingly, the date of abandonment of this application is January 06, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

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

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
www.uspto.gov

**THE JANSSON FIRM**
**9501 N. CAPITAL OF TX HWY #202**
**AUSTIN TX 78759**

**COPY MAILED**

JAN 0 2 2008

**OFFICE OF PETITIONS**

In re Application of :
Timothy J. Wilkinson et al :
Application No. 11/537,156 :
Filed: September 29, 2006 :
Attorney Docket No. 40.0010 C2 :

DECISION ON PETITION

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 20, 2006, which required the submission of a substitute specification. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 21, 2006. A Notice of Abandonment was mailed on June 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply required by the Notice of October 20, 2006, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of October 20, 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 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOX ROTHSCHILD LLP
P O BOX 592
112 NASSAU STREET
PRINCETON NJ 08542-0592

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of
Ju, et al.
Application No. 11/537,159
Filed: September 29, 2006
Attorney Docket No. P32275-A USA//
73787.00004
For: METHOD FOR SYNTHESIZING
PHOSPHORESCENT OXIDE
NANOPARTICLES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2009, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action, mailed December 17, 2008, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, this application became abandoned on March 18, 2009. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a RCE and required $405.00 fee and amendment in reply to the December 17, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 17, 2008 final Office action, and the $810.00 petition fee.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1793for 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 pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: PETER J. BUTCH III
FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA, PA 19103-3291

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20100526

**DATE** : May 27, 2010

**TO SPE OF** : ART UNIT 2186

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7707369

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 appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

**SPE:** /Matt Kim/ **Art Unit** 2186

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20100526

**DATE** : July 14, 2010

**TO SPE OF** : ART UNIT 2186

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7707369

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 appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

**SPE:** /Matt Kim/ **Art Unit** 2186

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20100526

**DATE** : July 14, 2010

**TO SPE OF** : ART UNIT 2186

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7707369

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 appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

**SPE:** /Matt Kim/ **Art Unit** 2186

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. |
|---|---|---|---|---|
| 11/537,191 | 09/29/2006 | John F. Judge | 26425-0024 | 1063 |

26587 7590 07/11/2008
MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

| EXAMINER |
|---|
| BOSWELL, BETH V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/11/2008 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/537,191 | 09/29/2006 | John F. Judge | 26425-0024 | 1063 |

7590 07/11/2008
MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

| EXAMINER |
|---|
| BOSWELL, BETH V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/11/2008 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty J. Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 07/14/2008 DTERRY
10/02/2006 INTEFSW 00000970 501059
02 FC:1111 500.00 CR
04 FC:1202 150.00 CR
11537191



FORM PET651G (Rev. 08/07)

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

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MAR 17 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **ARATHOON,** W. Robert et al. | : | |
| Application No. 11/537,195 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **39766-0215R1C5** | : | FROM RECORD |
| | : | |

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 03, 2008.

The request is not approved because it is moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on February 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MORRISON & FOERSTER LLP**
**755 PAGE MILL RD**
**PALO ALTO, CA 94304-1018**

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SANDISK CORPORATION
JENKINS, WILSON, TAYLOR & HUNT, P.A.
SUITE 1200 UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM, NC 27707

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yishai Kagan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656735 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,214 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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ROCKWELL AUTOMATION
for Turocy & Watson LLP
1201 SOUTH SECOND STREET
E-7F19
MILWAUKEE, WI 53204

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : David K. Johnson | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7612661 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,239 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yuan-Fang Lai | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649281 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,242 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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**FISH & RICHARDSON, P.C.**
**P.O. BOX 1022**
**MINNEAPOLIS, MN 55402-1022**

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of
Takeshi FUKUNAGA
Application No. 11/537,255
Filed: September 29, 2006
Attorney Docket No. 07977-274003

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 November 14, 2007.

The request is **APPROVED**.

A review of the file record indicates that Babak Akhlaghi: (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, Babak Akhlaghi 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).

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kevin R. Driscoll | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668084 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,305 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **636** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 -6TH STREET, NW
WASHINGTON, DC 20001

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JAN 30 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Medhavi Bhatia, et al. | : | |
| Application No. 11/537,316 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. NEXE-004/01US | : | FROM RECORD |
| | : | |

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

The request was signed by Daniel M. Bennett on behalf of all attorneys of record who are associated with customer No. 22903. All attorneys/agents associated with the Customer Number 22903 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 Medhavi Bhatia at the address indicated below.

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.

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

cc: MEDHAVI BHATIA
18912 FALLING STAR ROAD
GERMANTOWN, MD 20874

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

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Neil D. Lubart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595934 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/537,325 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **39** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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| | | |
|---|---|---|
| In re Application of | : | |
| Medhavi Bhatia et al. | : | |
| Application No. 11/537,329 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. NEXE-004/02US 306342-2020 | : | FROM RECORD |
| | : | |

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, 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 Daniel M. Bennett on behalf of all attorneys/agents associated with customer number 22903. All attorneys/agents associated with customer number 22903 have been withdrawn.

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

The correspondence has been changed to the address of the assignee of record. The new address 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: NextPoint Networks, Inc.
1445-1455 Research Boulevard
Suite 200
Rockville, MD 20850

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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 |
|---|---|---|---|
| 11/537,329 | 09/29/2006 | Medhavi Bhatia | NEXE-004/02US<br>306342-2020 |

**CONFIRMATION NO. 1278**

**POWER OF ATTORNEY NOTICE**

*OC000000033898124*

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 01/05/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2008.

- 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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P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Eleftherios Adamopoulos | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637984 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,334 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**INTELLECTUAL PROPERTY GROUP**
**FREDRIKSON & BYRON, P.A.**
**200 SOUTH SIXTH STREET**
**SUITE 4000**
**MINNEAPOLIS MN 55402**

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OFFICE OF PETITIONS

In re Application of :
Bruce T. Pearson :
Application No. 11/537,344 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. 53122.2.2 :

This is a decision on the petition, filed July 9, 2007 under 37 CFR 1.137(a), which is being treated as a petition 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 Notice To File Missing Parts Of Nonprovisional Application mailed October 23, 2006.

The petition states that a reply (declaration, a power of attorney, a transmittal letter, and a copy of the Notice to File Missing Parts) were timely submitted electronically on December 26, 2006. However, when the documents were submitted, counsel checked the box for new in which a new application was created (application no. 11/616,079) for the papers electronically submitted on December 26, 2006.

The papers submitted on December 26, 2006, will be removed from Application No. 11/616,079 and placed in the above correct Application No. 11/537,344.

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

Applicants may request a refund of the petition fee ($250) by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

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

This matter is being referred to the Office of Patent Application Processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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**ATTN: Patent Group**
**Suite 110**
**777-6th Street, NW**
**Washington, DC 20001**

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| | | |
|---|---|---|
| In re Application of | : | |
| Medhavi Bhatia, et al. | : | |
| Application No. 11/537,345 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. NEXE-004/03US 306342-2023 | : | FROM RECORD |

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, 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 Daniel M. Bennett 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 Joe Smith at the address indicated below.

There is an outstanding Office action mailed March 4, 2009 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Medhavi Bhatia**
**18912 Falling Star Road**
**Germantown, MD 20874**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/537,345 | 09/29/2006 | Medhavi Bhatia | NEXE-004/03US<br>306342-2023 |

**CONFIRMATION NO. 1300**

**POWER OF ATTORNEY NOTICE**

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

*OC000000034947392*

Date Mailed: 03/12/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2009.

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

/nmohammed/

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

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/537,345 | 09/29/2006 | Medhavi Bhatia | NEXE-004/03US<br>306342-2023 |

**CONFIRMATION NO. 1300**

**POWER OF ATTORNEY NOTICE**

25297
JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

*OC000000034985336*

Date Mailed: 03/12/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2008.

- 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.

/nmohammed/

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Tom H. Dao
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

| | |
|---|---|
| In re Application of: WOEHR et al.<br>Serial No.: 11/537,368<br>Filed: September 29, 2006<br>Title: PROTECTIVE DEVICE FOR AN INJECTION NEEDLE | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

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

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;
2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;
3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I:1-4, II: 1-5, 5.2, 5.3, 6, 6.1, 6.4, and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II : 5.1, 6.2, 6.3, and 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

## Discussion

When referring to "the petition" hereinbelow, the received papers under consideration include the two page PTO/SB/28 form, the "pre-examination search document" including pages 1-3 and Table 1; the "accelerated examination support document" comprising pages 1- 7 and Tables 1A, 2A and 3A, and an Information Disclosure Statement including form PTO/SB/08A/B(substitute PTO-1449 A/B.

Regarding the requirements of section II element 5.1 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 604/192 and 604/164.07, and with respect to claims 6, 13 and 19 the petition omitted a critical search area by not searching 604/264 and 604/272. Keyword searching utilizing the EAST system within class 604 should have included "spring with clip" and with respect to claims 6, 13 and 19 keyword searching in class 604 should have included "needle with (curve or bend or epidural or Huber). Any renewed petition should include the above outlined additional searching.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all of the limitations in the application claims that are disclosed in the reference(s) and where the limitation is disclosed in the cited reference. The petition provides a chart comparing each limitation of each independent claim to each of the 13 cited references but fails to encompass all claims. As stated in the policy published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), for each reference cited, the examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. The policy statement does not caveat "the independent claims". Thus, the chart provided by petitioner lacks in identifying all of the limitations in all of the claims that are disclosed by each reference. Petitioners chart should be expanded to include all claims and all claimed limitations.

Similarly, with respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each of the claims are patentable over (each of )the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioner provides a detailed explanation of how each of the independent claims is patentable over each of the cited references. This discussion fails, however to address each of the claims as required by the policy. Petitioner's discussion should be expanded to include each of the claims.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are incomplete. Petitioner has provided a showing of where each limitation of the independent claims finds support under 35 USC 112, first paragraph, in the written description of the specification. This must be expanded to include a showing of support for each limitation of each claim. Additionally, if the application claims the benefit of one or more applications under title 35, United States Code, as is the situation herein, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists. The instant petition fails to point out where each limitation each of the claims finds support under 35 USC 112, first paragraph, in each such prior

application for which benefit is claimed and in which support exists. If no support exists in the prior application(s) for a claimed limitation, such should be stated.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address all of the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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PASADENA CA 91109-7068

MAR 22 2007

In re Application of: WOEHR et al.
Serial No.: 11/537,368
Filed: September 29, 2006
Title: PROTECTIVE DEVICE FOR AN INJECTION NEEDLE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the request for reconsideration filed on December 22, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The request has been treated as a renewed petition to make the above-identified application special and has been viewed as a supplement to and in combination with the original petition which was filed on September 29, 2006 and dismissed in the Office letter of November 24, 2006.

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the conditions as outlined in the prior petition decision. The conditions are not repeated herein.

## REVIEW OF FACTS

As stated in the decision of November 24, 2006, conditions I:1-4, II: 1-4, 5, 5.2, 5.3, 6, 6.1, 6.4 and 6.6 were considered to have been met. However, the petition failed to comply with conditions II : 5.1, 6.2, 6.3, and 6.5 . Upon reconsideration, the petition is considered to additionally meet II 5.1 but remains deficient in meeting conditions II 6.2, 6.3, and 6.5. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

## DISCUSSION

Regarding the requirements of section II element 6.2 outlined in the prior decision, the petition still fails to identify all of the limitations in the application claims that are disclosed in the reference(s) and where the limitation is disclosed in the cited reference. While on its face it appears Petitioner adopted the prior suggestion of expanding Petitioner's chart to include all claims and all claimed limitations, closer inspection reveals otherwise. First, with respect to certain claims, the explanation is not specific. For example, with respect to claim 4 and the Howell '588 reference, it is stated " grip part has a proximal wall", but where this exists in the Howell reference is not specifically pointed out by petitioner. As another example, with respect to claim 3 and to multiple references (at least Harding, Thoresen and Chamuel) it is stated "yes, a word shows that the clip is made of metal" but where this is specifically taught in the references is not provided. This is not specifically pointing out where the limitation is disclosed in the cited reference as required for an application to be accorded accelerated examination status. Secondly, with respect to certain claims, the explanation is not clear or commensurate with the claimed language. For example, claim 3 recites "metal material"; with respect to Burmhall et al '294 the chart states "word search for steel and metal did not reveal disclosure". While it can be reasonable assumed petitioner conducted a text search within the document, "steel and metal" is not commensurate with the claimed "metal". Thirdly, at least the discussion of claim 12 points to places in the references which simply do not exist in the references. For at least the Howell '588, Harding '434 and Thoresen '681 references it is stated "Figure 7 clip 60 prevents the grip part 46 from being displaced distally off the needle tip. See also Fig. 60". Respectfully, neither Figure 7 or Figure 60 of each of these references contains elements 60 or 46. Lastly, it is noted the chart contains no discussion of the newly cited non-patent literature references to ESPICOM 1999 or ESPICOM 2000.

Similarly, with respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each of the claims are patentable over (each of )the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioner has failed to include detailed explanation of how each of the claims are patentable over each of the newly cited non-patent literature references to ESPICOM 1999 or ESPICOM 2000.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are incomplete. Petitioner has provided a showing of where each limitation of the independent claims finds support under 35 USC 112, first paragraph, in the written description of the instant specification. This must be expanded to include a showing of support for each limitation of each claim. Upon reconsideration, the showing still fails to show support for the dependent claims in the instant application. Such was not included when petitioner provided support for all of the claims throughout the chain of priority documents.

## DECISION

For at least the above-stated reasons, the petition is **DENIED**. The application will remain in its regular status and will be taken up by the examiner for action in its regular turn.

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Robert P Helmin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7597247 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/537,427 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Zhenhua Zhou | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7601668 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,462 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**WOODCOCK WASHBURN LLP**
**CIRA CENTRE, 12TH FLOOR**
**2929 ARCH STREET**
**PHILADELPHIA, PA 19104-2891**

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**OFFICE OF PETITIONS**

In re Application of
**Steven C. QUAY, et al.**
Application No. 11/537,468
Filed: September 29, 2006
Attorney Docket No. **00-03CIP**

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) and amendment, filed July 17, 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 previously filed on October 28, 2008.

A review of the petition discloses that the application number on the petition is incorrect. Petition cites application number 11/439,404 while concurrently filed amendment cites application number 11/537,468. The Office has determined that the remaining identifiers in the petition are sufficient to establish that the applicant submits the petition for 11/537,468.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

It is also noted that the reference to add the prior-filed applications was omitted from the amendment concurrently filed with this petition.

In the amendment previously filed October 28, 2008 the reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by

reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or 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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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Copy of petition filed July 17, 2009

**DOCKET NO.: MDRN-0038** **PATENT**

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

In re Application of:
**Steven C. Quay et al.**

Confirmation No.: **1464**

Application No.: **11/439,404**

Group Art Unit: **1614**

Filing Date: **May 22, 2006**

Examiner: **Christopher R. Stone**

For: **COMPOSITIONS AND METHODS FOR THE TREATMENT OF PSYCHIATRIC DISORDER**

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**PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY PURSUANT TO 37 C.F.R. §1.78**

Applicant hereby petitions the Office to accept an unintentionally-delayed claim for priority in connection with the above-referenced patent application.

Accompanying this petition is:

☒ An amendment directing entry of the claim for priority into the specification of the above-referenced patent application; and

☒ The fee of $1410.00 as set forth in 37 C.F.R. §1.17(t).

**STATEMENT**

The entire delay between the date the claim for priority was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

Payment of fee(s):

☐ Enclosed please find a check in the amount of $1410.

☒ Please charge Deposit Account No. 23-3050 the sum of $1410.00.

☒ The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of the fees associated with this communication to Deposit Account No. 23-3050.

Date: July 17, 2009

/Peter J. Knudsen/
Peter J. Knudsen
Registration No. 40,682

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

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**MAR 16 2010**

| | | |
|---|---|---|
| In re Application of | : | |
| **Steven C. QUAY**, et *al.* | : | |
| Application No. 11/537,468 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. **00.03CIP** | : | |

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the

prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). **If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. *When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application*.** *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or 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 Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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| | | |
|---|---|---|
| In re Application of | : | |
| Richard Harrop, et al. | : | |
| Application No. 11/537,511 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 021911-001910US | : | FROM RECORD |
| | : | |

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 24, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

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: MARSHALL, GERSTEIN & BORUN, LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

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

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

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Tang et al. | : | |
| Application No. 11/537,522 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. 884.H44US1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 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 Restriction Requirement mailed May 22, 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 June 23, 2008. A Notice of Abandonment was mailed December 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 2815 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: John N. Greaves
P.O. Box 52050
Minneapolis, MN 55402

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UNITED STATES DEPARTMENT OF COMMERCE
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** | : Chi-won Hwang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7600667 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,544 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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4331 STEVENS BATTLE LANE
FAIRFAX VA 22033

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OFFICE OF PETITIONS

In re Application of :
Wen :
Application No. 11/537,576 :
Filed: 29 September, 2006 :
Attorney Docket No. P2063US :

DECISION

This is a decision on the petition filed on 2 November, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

*Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).*

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment 31 March, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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.

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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.

## CONCLUSION

Accordingly, the petition pursuant to 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

[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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| In re Application of | : | |
| Wen | : | |
| Application No. 11/537,576 | : | DECISION |
| Filed: 29 September, 2006 | : | |
| Attorney Docket No. P2063US | : | |

This is a decision on the petition filed on 2 November, 2009, pursuant to 37 C.F.R. §1.181 for revival of an application abandoned due to unintentional delay. It appears that, since the decision of 22 December, 2009, one set of papers was moved out of the file and new papers inserted.

Accordingly, the decision of 22 December, 2009, hereby is **vacated** and the petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.181.")."

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

As to the Request to Withdraw
the Holding of Abandonment

***Petitioner is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.***

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c )(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment 31 March, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt, and attempted to support that averment with the statement that the Notice of Allowance/Allowability and Fees Due was returned to the Office as undelivered. Petitioner apparently wholly misread the record. What appeares to have happened is that at some time unknown Petitioner changed representation and/or mailing addresses without prior Notice to the Office—the papers that subsequently were returned to the Office were not the Notice of Allowance/Allowability and Fees Due, but rather the Notice of Abandonment that followed Petitioner's failure to timely and properly reply to Notice of Allowance/Allowability and Fees Due. Moreover, Petitioner has failed to comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). Petitioner is directed to the appropriate guidance (MPEP §711.03(c ), and requested to comply with it. Otherwise, Petitioner must immediately file a petition pursuant to 37 C.F.R. §1.137.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c )(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was

not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

*If Petitioner is unable to comply with and/or otherwise satisfy these requirements, he may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )*

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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[1] *See*: MPEP §711.03(c ) (I)(A).

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

## STATUTES, REGULATIONS

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

### Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

## CONCLUSION

Accordingly, the decision of 22 December, 2009, hereby is **vacated** and the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

## ALTERNATIVE VENUE

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

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

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of :
Wen :
Application No. 11/537,576 :
Filed: 29 September, 2006 :
Attorney Docket No. P2063US :

DECISION

This is a decision on the petition filed on 17 May, 2010, pursuant to 37 C.F.R. §1.137(b) to revive an application abandoned due to unintentional delay.

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

*Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c).*

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 3 December, 2008, with reply due under a non-extendable deadline on or before 3 March, 2009.

The application went abandoned by operation of law after midnight 3 March, 2009.

The Office mailed the Notice of Abandonment 31 March, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt, and attempted to support that averment with the statement that the Notice of Allowance/Allowability and Fees Due was returned to the Office as undelivered. Petitioner apparently wholly misread the record. What appears to have happened is that at some time unknown Petitioner changed representation and/or mailing addresses without prior Notice to the Office—the papers that subsequently were returned to the Office were not the Notice of Allowance/Allowability and Fees Due, but rather the Notice of Abandonment that followed Petitioner's failure to timely and properly reply to Notice of Allowance/Allowability and Fees Due. Moreover, Petitioner failed to comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). The petition was dismissed on 16 March, 2010.

On 17 May, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply 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]))

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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.

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.

CONCLUSION

Accordingly, the petition pursuant to 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 Publication 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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[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.

[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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OFFICE OF PETITIONS

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

| | |
|---|---|
| In re Patent No. 7,624,353 | : DECISION ON REQUEST |
| Bradley R. Beumer | : FOR |
| Issue Date: November 24, 2009 | : RECONSIDERATION OF |
| Application No. 11/537,581 | : PATENT TERM ADJUSTMENT |
| Filed: September 29, 2006 | : and |
| Atty Docket No.**12587-0085001** | : NOTICE OF INTENT TO ISSUE |
| | : CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and six (406) 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 and six (406) days is **GRANTED**.

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

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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 and six (406) days.**

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,624,353 B2

DATED : Nov. 24, 2009

INVENTOR(S) : Beumer

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (350) days

Delete the phrase "by 350 days" and insert – by 406 days--

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SAP Global IP c/o Cooley Godward Kronish LLP
William S. Galliani
777 6th Street NW, Suite 1100
Washington, DC 20001

Mail Date: 05/04/2010

| | | |
|---|---|---|
| **Applicant** | : Ellen Sagalov | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623129 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/537,588 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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**CHURCH STREET STATION**
**NEW YORK NY 10008-0770**

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|---|---|---|
| In re Application of | : | |
| Micah Dubinko et al | : | DECISION GRANTING STATUS |
| Application No. 11/537,593 | : | UNDER 37 CFR 1.47(a) |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. 08226/0205468-USO | : | |

This is in response to the petition under 37 CFR 1.47(a), filed June 1, 2007 and supplemented on October 3, 2007.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors 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 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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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**NEW YORK NY 10008-0770**

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|---|---|---|
| In re Application of | : | |
| Micah Dubinko et al | : | |
| Application No. 11/537,593 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 08226/0205468-USO | : | |

This is a decision on the petition, filed September 13, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 3, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

This application is being referred to Technology Center Art Unit 2176 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. BOX 1818
BURNSVILLE, MN 55337

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jonathan E. Hall | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626805 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,607 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BURNSVILLE, MN 55337

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jonathan E. Hall | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7630196 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,608 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **372** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**ARLINGTON VA 22201-2909**

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| In re Application of | : | |
| William D. Goodman | : | |
| Application No. 11/537,611 | : | DECISION ON PETITION |
| Filed: September 30, 2006 | : | |
| Attorney Docket No. 01-1503C1 | : | |

This is a decision on the petition, filed March 4, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 11, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before April 11, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of an Auto-Reply Facsimile Transmission which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 11, 2008 of, *inter alia,* an amendment. A copy of the previously submitted reply accompanies the petition.

The amendment acknowledged as having been received in the USPTO on April 11, 2009 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment/response was timely received in the USPTO but lost after receipt thereof.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 11, 2008.

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received with petition.

/KOC/
Karen Creasy
Office of Petitions
Petitions Examiner

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BURNSVILLE, MN 55337

Mail Date: 04/21/2010

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| **Applicant** | : Jonathan E. Hall | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646597 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,613 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **450** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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| In re Application of | : | |
| John M. Holley, Jr. | : | |
| Application No. 11/537,642 | : | DECISION GRANTING PETITION |
| Filed: September 30, 2006 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. D-20644-1 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and required filing fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed January 11, 2007, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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San Jose, CA 95138

Mail Date: 05/21/2010

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| **Applicant** | : Paul Adriani | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658055 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/537,657 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/01/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **703** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : David Sjolander | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644096 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/537,664 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HUMAN GENOME SCIENCES, INC.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

Applicant: Wei et al.
Appl. No.: 11/537,681
Filing Date: October 2, 2006
Title: "CHEMOKINE BETA 15"
Attorney Docket: PF 282c102
Pub. No.: US 2007/0048256 A1
Pub. Date: March 1, 2007

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This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 1, 2007, for the above-identified application.

The request is granted.

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

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

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

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

14 APR 2010

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| BODIE, Neil M., et al. | : | |
| U.S. Application No.: 11/537,710 | : | |
| Filing Date: 02 October 2006 | : | DECISION |
| Attorney Docket No.: 20160-003002 | : | |
| For: METHODS FOR INHIBITING | : | |
| IMMUNE COMPLEX FORMATION | : | |
| IN A SUBJECT | : | |

This is a decision on applicants' petition filed 23 December 2009 under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim for benefit under 35 U.S.C. 120 to prior filed international application PCT/US2005/008131.

The petition is **DISMISSED AS MOOT**.

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).

The specification as originally filed includes in the first sentence thereof benefit claims under 35 U.S.C. §§120, 365(c) and 119(e) to prior filed nonprovisional application 11/530,273, international application PCT/US2005/008131, and provisional application 60/551,817. Specifically, the claim indicated that the present application is a continuation of 11/530,273, "which is a continuation-in-part and claims benefit under 35 U.S.C. § 119(a) of International Application No. PCT/US2005/008131". Benefit to the provisional application is claimed through the international application.

While the benefit claim to the international application refers to an incorrect statutory provision ("35 U.S.C. §119(a)") as recognized by Petitioners, the original benefit claim nevertheless complies with the requirements of 37 CFR 1.78(a)(2)(i), as a proper relationship (i.e., "continuation-in-part") between applications 11/530,273 and PCT/US2005/008131 was timely furnished. Accordingly, the petition fee will be refunded.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

U.S. Application No.: 11/537,710

This application is being forwarded to Technology Art Unit 1654 for processing of the Amendment under 37 CFR 1.312 as deemed appropriate in light of this decision.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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In re Application of :
Fenton, et al. :
Application No. 11/537,719 : ON PETITION
Filed: October 2, 2006 :
Attorney Docket No. 020589-00006 :
For: ASSISTED SEISMIC MEASURING
SYSTEM INCLUDING GPS RECEIVERS

This decision is in response to the petition under 37 CFR 1.47(a), filed May 4, 2007.

The petition is **GRANTED.**

Petitioner havs shown that the non-signing inventor, Patrick C. Fenton, has refused to join in the filing of the above-identified application, through his attorney, after having been presented with the application papers. Specifically, the exhibits to the petition establish that petitioner requested Mr. Fenton sign the declaration in a letter dated April 16, 2007 to his U.S. patent counsel, Ms. Patricia A. Sheehan. It is noted a copy of the application was included in the April 16, 2007 mailing. Ms. Sheehan received the package and stated in a letter date April 27, 2007 that her client would not sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/5/09

TO SPE OF : ART UNIT 3637 MAI Lanna (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/537820 Patent No.: 7434522

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:** _____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/5/09

TO SPE OF : ART UNIT 3637 MAI Lanna (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/537820 Patent No.: 7434522

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: /J.V.C./ (09/14/2009)

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

**Comments:** _____

_____ **SPE** _____ **Art Unit**

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www.uspto.gov

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

MAILED

APR 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Mark R. Stelter, et al. :
Application No.: 11/537,824 : ON PETITION
Filed: October 2, 2006 :
Attorney Docket No.: 2-5169-097 :

This is a decision on the petition, filed April 21, 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 16, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

The application is being referred to Technology Center AU 3725 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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SUITE 1213
DES MOINES, IA 50309-4076

MAILED

APR 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mark R. Stelter, et al. | : | |
| Application No.: 11/537,824 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No.: 2-5169-097 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 21, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional application No. 60/246,670.

The petition is **DISMISSED.**

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

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

The petition lacks items (3). In this regard, 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).

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)) deleting the incorporation by reference statement, are required.

As authorized, the $1,410 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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DES MOINES, IA 50309-4076

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JUN 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Robert Stelter, et al. | : | |
| Application No. 11/537,824 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | UNDER 37 CFR 1.78(a)(3) AND (a)(6) |
| Attorney Docket No. 2-5169-097 | : | |

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 8, 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 concurrently filed amendment.

The petition is **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 the undersigned at (571) 272-3204. 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 3725 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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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 |
|---|---|---|---|---|---|---|
| 11/537,824 | 10/02/2006 | 3725 | 1500 | 2-5169-097 | 2 | 2 |

**CONFIRMATION NO. 1055**

**CORRECTED FILING RECEIPT**

803
STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

*OC000000036416376*

Date Mailed: 06/11/2009

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

**Applicant(s)**

Mark Robert Stelter, Pella, IA;
James L. O'Halloran, Pella, IA;
Dennis K. Gabler, Adel, IA;
Jeffrey D. Kernwein, Pella, IA;
Ivan R. Brand, Pella, IA;
Brian M. Johnson, Monroe, IA;

**Power of Attorney:**

H Henderson--18486
Michael Sturm--26078
William Wright--26424
John Cepican--26851
Richard Fix--28297
Thomas Oppold--42054

**Domestic Priority data as claimed by applicant**

This application is a DIV of 11/416,422 05/02/2006 PAT 7,232,083
which is a DIV of 10/001,509 10/31/2001 PAT 7,044,409
which claims benefit of 60/246,670 11/08/2000

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/537,824**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**Title**

BRUSH CHIPPER AND METHODS OF OPERATING SAME

**Preliminary Class**

241

## 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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ACUSHNET COMPANY
333 BRIDGE STREET
PO BOX 965
FAIRHAVEN MA 02719

**COPY MAILED**

JAN 30 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sullivan, et al. | : | |
| Application No. 11/537,830 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. B03-40-C1 | : | |

This is a decision on the petition under 37 CFR 1.182, filed November 29, 2006, requesting that the above-identified application be accorded a filing date of October 2, 2006.

The instant application was deposited on October 2, 2006, claiming the benefit of priority to application no. 10/665,176. However, the instant application omitted a copy of the drawings. Accordingly, on November 16, 2006, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, applicants filed the present petition on November 29, 2006. A review of the record reveals that applicants incorporated application no. 10/665,176 by reference.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.[1]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[2] Here, applicants omitted drawings in their entirety. However, petitioners incorporated application no. 10/809,358 via an incorporation by reference statement in the first line of the specification. In addition, petitioners submitted the omitted drawings, and the $400 petition fee, and filed the drawings and an amendment seeking their entry.

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

Receipt of the $400 petition fee is acknowledged.

---

[1] MPEP 201.06(c)(emphasis added).

[2] See id.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a **filing date of October 2, 2006**, using the application papers received in the Office on that date and the one (1) sheet of drawings supplied on petition filed November 29, 2006. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Scott R. Presnell | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638286 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,835 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **547** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Stephen Scott Trundle | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619512 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,875 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **518** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Scott R. Presnell | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7612191 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,892 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

**VERMETTE & CO.**
**SUITE 320 - 1177 WEST HASTINGS STREET**
**VANCOUVER BC V6E2K-3 CA CANADA**

In re Application of :
**FOWLDS,** Sidney B. :
Application No. 11/537,909 : DECISION ON PETITION
Filed: October 02, 2006 : TO WITHDRAW
Attorney Docket No. **2514-100** : FROM RECORD

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 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 Clifford Vermette, the sole attorney of record. Clifford Vermette has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Sidney Fowlds 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: **SIDNEY B. FOWLDS**
**2765 SKILIFT PLACE**
**WEST VANCOUVER BC V7S 2T6**

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

Townsend and Townsend and Crew LLP
Two Embarcadero Center-8th Floor
San Francisco, CA 94111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Scott R. Presnell | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619071 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,910 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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MAY 18 2007

**OFFICE OF PETITIONS**

In re Application of :
Turner et al. :
Application No. 11/537,941 : DECISION ON PETITION
Filed: 10/02/2006 :
Attorney Docket No. VTN0541DIV2 :

This is a decision on the petition under 37 CFR 1.47(a), filed October 2, 2006. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

Petitioner submitted, *inter alia*, a one-page petition, 8 pages of exhibits, and a 7-page declaration. However, the petition lacks a signature as required in 37 CFR 1.4(d).

Pursuant to 37 CFR 1.4(d):

> (1) Handwritten signature. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:
>
> (i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or
>
> (ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)) of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

The Office cannot accept the petition under 37 CFR 1.47(a) because petitioner failed to comply with the signature requirement. Consequently, the present petition will not be addressed on the merits until petitioner files a "renewed" petition under 37 CFR 1.47(a) signed by an appropriate person in compliance with 37 CFR 1.4. No addition fee is required for filing a "renewed" petition.

The "renewed" petition under 37 CFR 1.47(a) 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.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

Telephone inquiries related to this decision may 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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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shuqiang Shen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603034 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,964 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**K & L GATES LLP**
**1900 MAIN STREET, SUITE 600**
**IRVINE, CA 92614-7319**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jill D. Fabricant | : | DECISION ON PETITION |
| Application No. 11/537,967 | : | TO WITHDRAW |
| Filed: October 2, 2006 | : | FROM RECORD |
| Attorney Docket No. 1503-006 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 22, 2009.

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

A review of the file record indicates that on December 3, 2009 the power of attorney to K & L Gates 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: HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARNOLD & PORTER, LLP
555 12TH STRREET, NW
WASHINGTON, DC 20004

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AUG 27 2008

Applicant: Slusher, et al.
Appl. No.: 11/537,979
Filing Date: October 2, 2006
Title: THIOLACTONES
Attorney Docket No.: P30691US02
Pub. No.: 2007/0037798 A1
Pub. Date: February 15, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 16, 2007, for the above-identified application.

The request is DISMISSED as moot.

Applicant requests that the application be republished because the patent application publication contains material errors in claims 11, 12, 14, 18, 39 and 41 wherein there are errors in the chemical formula.

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 errors noted by applicant may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors are not material Office errors because the application is abandoned. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

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

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gary Hayter | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618369 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/537,991 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **503** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**AIR LIQUIDE INTELLECTUAL PROPERTY DEPT.**
**2700 POST OAK BLVD.**
**SUITE 1800**
**HOUSTON TX 77056**

| | | |
|---|---|---|
| In re Application of | : | |
| Meenakshi Sundaram et al | : | DECISION GRANTING STATUS |
| Application No. 11/537,993 | : | UNDER 37 CFR 1.47(a) |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. Serie 7223 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed February 7, 2007.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor cannot be located to join in the filing of the above-identified application.

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

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

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

Petitioner should be aware that the papers submitted on February 7, 2007, reference Application No. 10/537,993 instead of 11/537,993.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of

**TSIRIGOTIS,** Panagiotis, et al.
Application No. 11/537,997
Filed: October 02, 2006
Attorney Docket No. **23313-12100**

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 01, 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 C. Smith 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: **PANAGIOTIS TSIRIGOTIS**
**1575 TENAKA PL., #D-5**
**SUNNYVALE, CA 94087**

cc: **BEYER WEAVER, LLP**
**500 12TH STRET, SUITE 200**
**OAKLAND, CA 94607**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/537,997 | 10/02/2006 | Panagiotis Tsirigotis | 23313-12100 |

**CONFIRMATION NO. 1301**

*OC000000025816284*

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

Date Mailed: 09/13/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2007.

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

---

Michelle R. Edson

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

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Stuart F. Oberman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659893 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,002 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SYLMARK, INC.
7821 Orion Avenue
SUITE 200
Lake Balboa CA 91406

MAILED
JUL 26 2010
OFFICE OF PETITIONS

In re Application of :
Leng et al. :
Application No. 11/538,009 : DECISION ON PETITION
Filed: October 2, 2006 : PURSUANT TO
Attorney Docket No.: IP- : 37 C.F.R. § 1.137(B)
4015US :
Title: IONIC AIR PURIFIER :
WITH HIGH AIR FLOW :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 23, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 5, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on August 6, 2009. A Notice of Abandonment was mailed on September 1, 2009.

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

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

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition 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

3 See Rule 1.137(d).

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 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.[4] 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Marc Van Dyke
123 N.W. 13th Street, Suite 221
Boca Raton, FL 33432-1619

---

4 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).
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

LEE, HONG, DEGERMAN, KANG & SCHMADEKA
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

MAIL

APR 30 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

| | | |
|---|---|---|
| In re Application of<br>LEE, SANG-HYUCK, et al.<br>Application No. 11/538,022<br>Filed: October 2, 2006<br>Attorney Docket No. 2060-3450 | : | DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 15, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**: _____

**DATE** : 09/01/09

**TO SPE OF** : ART UNIT 2877

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11538055 Patent No.: 7538891

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**

You can fax the Directors/SPE response to 571-270-9990

*Lamonte Newsome*

**Certificates of Correction Branch**

**703-756-1574**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

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

**Comments:** Corrections accepted.

/Gregory J. Toatley, Jr./ 2877

**SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**CONNOLLY BOVE LODGE & HUTZ LLP**
**SUITE 800**
**1990 M STREET, N.W.**
**WASHINGTON, DC 20036**

**COPY MAILED**

FEB 19 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Bukai, Dror | : | |
| Application No. 11/538,092 | : | DECISION GRANTING |
| Filed: October 3, 2006 | : | PETITION |
| Attorney Docket No. 22369-00001-US1 | : | |

This is a decision on the petition filed January 16, 2007, requesting that the above-identified application be accorded a filing date of October 3, 2006. The petition is being treated under 37 CFR 1.53(e)(1).

The application was deposited on October 3, 2006. However, on January 5, 2007, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application (Notice), stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings.

As stated in MPEP § 601.01(f), it is the practice of the United States Patent and Trademark Office (Office) to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for submission of drawings as set forth in the Notice was mailed in error and is hereby withdrawn.

The petition is **GRANTED**. The application is accorded a filing date of October 3, 2006, without any drawings as a part of the original disclosure.

Prior to the first Office action on the merits, applicant should file an amendment canceling all references to Figures 1 and 2 in the specification.

Petitioner requests a refund of the $400.00 petition fee. In view of the fact that the Notice was sent in error, the petition fee is hereby credited to petitioner's deposit account as requested and authorized.

This matter is being referred to OIPE for further processing with a filing date of October 3, 2006, and an indication in the Office records that "0" sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

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
www.uspto.gov

C. G. Mersereau, Esq.
NIKOLAI & MERSEREAU, P.A.
Suite 820
900 Second Avenue South
Minneapolis MN 55402-3813

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of
Beisang
Application No. 11/538,097
Filed: October 03, 2006
Attorney Docket No. 20060648.ORI

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

This is a decision on petition under 37 CFR 1.102(c)(1) & (c)(2)(iii), filed November 30, 2006, to make the above-identified application special based on (a) applicant's age as set forth in M.P.E.P. § 708.02, Section IV and (b) materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The age petition is **DISMISSED**.

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

The instant petition does not include acceptable evidence showing that the applicant is 65 years of age, or more. To perfect the request a renewed petition may be filed providing acceptable evidence. The evidence to support the renewed petition will be available to the public.

Effective August 25, 2006, changes were implemented in the practice for petitions to make special. MPEP § 708.02(a) sets forth the requirements to meet the new standard. The new requirements were also detailed in the Official Gazette (1308 OG 106) July 16, 2006. According the petition to make special under 37 CFR 1.102 (c)(2)(iii) based on contributing to counter terrorism is not being treated. If applicant want to pursue the petition under MPEP§ 708.02(a), a separate filing should be submitted according to 37 CFR 1.4(b).

This lack of meeting the evidence standards of 37 CFR 102(c)(1) does not permit the applicant to enjoy the benefit of advanced examination.

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 Jefferey Harold at 571-272-7519, 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 2876 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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C. G. Mersereau, Esq.
NIKOLAI & MERSEREAU, P.A.
Suite 820
900 Second Avenue South
Minneapolis MN 55402-3813

**COPY MAILED**

JUL 03 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Arthur A. Beisang | : | |
| Application No. 11/538,097 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 20060648.ORI | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed April 16, 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 age petition is **GRANTED**.

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

The instant petition includes a statement by Applicant 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 Christopher Bottorff at (571) 272-6052 or in his absence, 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 2876 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 06/01/2010

| | | |
|---|---|---|
| **Applicant** | : Mladen Humer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621598 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,114 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **156** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 2/25/10

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/538117 Patent No.: 7607364 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

Virginia Tolbert
**Certificates of Correction Branch**
571-272-0460

**Thank You For Your Assistance**

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

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

**Comments:** I have reviewed the specification original specification and the replacement drawing received on 2/16/10. The changes made does not contain new matter nor is the scope of the claims changed.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams

3/18/10

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Alan John Duff | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607364 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,117 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**NEUSTEL LAW OFFICES, LTD.**
**2534 SOUTH UNIVERSITY DRIVE**
**SUITE 4**
**FARGO ND 58103**

MAILED

JAN 12 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Byungwoo CHO, et al | : | |
| Application No. 11/538,148 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO WITHDRAW |
| Attorney Docket No. BCHO-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 November 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Michael S. Neustel 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: BYUNGWOO CHO
5-604, JINHEAUNG APT. SEOCHO 4-DONG
SEOCHOKU SEOUL 137-776 SOUTH KOREA

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 |
|---|---|---|---|
| 11/538,148 | 10/03/2006 | BYUNGWOO CHO | BCHO-002 |

**CONFIRMATION NO. 1525**

**POWER OF ATTORNEY NOTICE**

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

*OC000000039606352*

Date Mailed: 01/12/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/23/2009.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**NEIFELD IP LAW, PC**
**4813-B EISENHOWER AVENUE**
**ALEXANDRIA VA 22304**

MAILED

MAY 12 2010

OFFICE OF PETITIONS

In re Application of: :
Michael F. Roberts :
Application No. 11/538,181 : PETITION DECISION
Filed: October 3, 2006 :
Attorney Docket No.: PIP165ROBEU-US :

This is a decision on the petition under 37 CFR 1.183 filed December 2, 2009 requesting waiver of the requirements of 37 CFR 41.37(c)(1)(x) and 37 CFR 41.33(c).

The petition is **DISMISSED** as unnecessary.

Petitioner requests waiver of certain requirements of 37 CFR 41.37 and 41.33 so that new evidence may be relied upon under appeal.

MPEP 1207.03(v)(2) states:

> (2) Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in § 41.41. Such a reply brief must address each new ground of rejection as set forth in § 41.37(c)(1)(vii) and should follow the other requirements of a brief as set forth in § 41.37(c). A reply brief may not be accompanied by any amendment, affidavit (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

Petitioner's request to waive the rules is not necessary since the inclusion of the affidavit operates to cause the prosecution to be reopened and the evidence is before the examiner for consideration. No extraordinary situation exists which would require waiver of the rules.

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

By mail: Mail Stop Petition
Director 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

The application is being forwarded to Technology Center Art Unit 3695 for consideration of the evidence filed concurrent with this petition.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/29/2010

| | | |
|---|---|---|
| **Applicant** | : Taegeun NOH | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7611794 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,188 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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MAILED

MAY 19 2010

OFFICE OF PETITIONS

**FROST BROWN TODD LLC**
**2200 PNC CENTER**
**201 EAST FIFTH STREET**
**CINCINNATI OH 45202**

| | | |
|---|---|---|
| In re Application of | : | |
| Jonathan Scott MAHER et al. | : | |
| Application No. 11/538,226 | : | DECISION ON PETITION |
| Filed: October 03, 2006 | : | |
| Attorney Docket No. 0100736.0539808 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 09, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 09, 2009. Accordingly, the date of abandonment of this application is December 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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**Haynes and Boone, LLP**
**901 Main Street, Suite 3100**
**Dallas, TX 75202**

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JUN 28 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Scot Costa et al. | : | |
| Application No. 11/538,228 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 25791.156 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 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.

A courtesy copy of this decision is being mailed to the first named signing inventor. A courtesy copy is being to the address noted in the request. If the attorneys with this firm desire to receive future communication concerning this application, the proper power of attorney documents should be submitted.

There are no outstanding office actions at this time.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Scott Costa
25614 Broadcrest Court
Katy, TX 77494

cc: King & Spalding, LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/538,228 | 10/03/2006 | Scott Costa | 2725-15601 | 1662 |

7590 07/11/2008
Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

| EXAMINER |
|---|
| NEUDER, WILLIAM P |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3672 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/11/2008 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/11/2008 NFARMER
10/04/2006 INTEFSW 00000093 503953 11538228
02 FC:1111 500.00 CR
04 FC:1202 1150.00 CR
05 FC:1201 600.00 CR



FORM PET651G (Rev. 08/07)

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

| | | |
|---|---|---|
| In re Application of | : | |
| **HOLLADAY,** Robert J. et al. | : | |
| Application No. 11/538,262 | : | DECISION ON PETITION |
| Filed: October 03, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **80663.242953** | : | FROM RECORD |
| | : | |

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 02, 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).

Joanne Esty has 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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**P.O. BOX 34385**
**WASHINGTON DC 20043-9998**

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| | | |
|---|---|---|
| In re Application of | : | |
| Holladay et al. | : | DECISION ON PETITION |
| Application No. 11/538,262 | : | TO WITHDRAW |
| Filed: October 3, 2006 | : | FROM RECORD |
| Attorney Docket No. 80663.242953 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 12, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

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

The request to change the correspondence address of record is not accepted in view of Deborah Feinblum not having power of attorney. See MPEP §§ 601.03 and 405.

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 December 28, 2009 that requires a reply.

Telephone inquires 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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APR 01 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO ON M5L 1A9 CA CANADA

| | | |
|---|---|---|
| In re Application of<br>PETROVIC, JOHN et al.<br>Application No. 11/538,277<br>Filed: October 03, 2006<br>Attorney Docket No. 87171/00008 | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d) |

This is a decision on the request ~~for reconsideration~~ to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 20, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Carl F. Hagerstrom | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640406 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,307 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **377** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Carl F. Hagerstrom | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599971 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,313 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **124** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 05/18/2010

**Applicant** : Carl F. Hagerstrom
**Patent Number** : 7599971
**Issue Date** : 10/06/2009
**Application No** : 11/538,313
**Filed** : 10/03/2006

: 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 **163** 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 THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Carl F. Hagerstrom | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603397 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,316 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 05/18/2010

**Applicant** : Carl F. Hagerstrom
**Patent Number** : 7603397
**Issue Date** : 10/13/2009
**Application No** : 11/538,316
**Filed** : 10/03/2006

: 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 **26** 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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**600 NORTH US HIGHWAY 45**
**ROOM AS437**
**LIBERTYVILLE IL 60048-5343**

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ON PETITION

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|---|---|---|
| In re Application of | : | |
| Alameh et al. | : | |
| Application No. 11/538,338 | : | |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. CS28156RL | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 11, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Tongbi Jiang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7635611 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,344 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**BAXANO, INC. & TOWNSEND AND TOWNSEND AND CREW**
**TWO EMBARCADERO CENTER, EIGHTH FLOOR**
**SAN FRANCISCO CA 94111-3834**

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of

**SCHMITZ**, et al.
Application No. 11/538,345
Filed: October 03, 2006
Attorney Docket No. **10376-709.201**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 10, 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 requesting the withdrawal were not appointed by the customer number 20350. A revocation of attorney was received in the above application on October 3, 2006 which appointed attorneys associated with customer number 64214. A request to withdraw can not be approved if withdrawing attorney's customer number differs from that of record.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAYGLENN LLP**
**2755 CAMPUS DRIVE, SUITE 210**
**SAN MATEO, CA 94403**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 06/10/2010

| | | |
|---|---|---|
| **Applicant** | : William D. Warner | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656945 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,346 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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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**MAIL**

NOV 03 2006
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA CA 92626-1931

| | |
|---|---|
| In re Application of:<br>Sean Ryan, et al.<br>Serial No.: 11/538,354<br>Filed: October 3, 2006<br>Docket: **101396.0001US**<br>Title: **VOIP WITH LOCAL CALL ACCESS** | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the petition filed on October 3, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II., items 5.2 and 6.2 through 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2, the preexamination search logic used by applicant is deemed to be unduly limiting. Specifically, keyword searches "Voice Over Internet telephone" and "Voice Over Internet telephone adaptor" are deemed too narrow. These keyword searches should be broadened to "internet telephone" and "internet telephone adaptor". Furthermore, the search should include a search in class 705.

Regarding the requirement of items 6.2 through 6.5, 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Petitioner does not specifically point out the particular language of the claims that distinguishes over *each* cited reference. For instance, petitioner only provides discussion of Veschi (US Pat. No. 7,050,426). Petitioner does not discuss all of the references listed in the information disclosure statements (IDS) submitted on October 3, 2006, nor indicate why these references were not discussed. The presumption is that each of the cited references is considered most relevant to the claimed invention since copies have been submitted. Thus, the petition does not meet the conditions II.6.2 – II.6.5 above.

## DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Krista Zele, Special Program Examiner, at (571) 272-7288.

Krista Zele
Special Program Examiner
Technology Center 2600

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**RUTAN & TUCKER, LLP.**
**611 ANTON BLVD**
**SUITE 1400**
**COSTA MESA CA 92626**

**COPY MAILED**

SEP 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **RYAN,** Sean et al. | : | |
| Application No. 11/538,354 | : | DECISION ON PETITION |
| Filed: October 03, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **101396.0001US** | : | FROM RECORD |
| | : | |

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**.

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.

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, [attorney and agents left this customer number 3/3/2007], does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
**FISH & ASSOCIATES, PC**
**2603 MAIN STREET, SUITE 1050**
**IRVINE CA 92614**

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**RUTAN & TUCKER, LLP.**
**611 ANTON BLVD**
**SUITE 1400**
**COSTA MESA CA 92626**

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**OFFICE OF PETITIONS**

In re Application of
**RYAN,** Sean et al.
Application No. 11/538,354
Filed: October 03, 2006
Attorney Docket No. **101396.0001US**

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 07, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Todd Wight on behalf of all attorneys of record who are associated with customer No. 34284. All attorneys/agents associated with the Customer Number 34284 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SEAN RYAN**
**1452 CARMELITA STREET**
**LAGUNA BEACH CA 92651**

cc: **ROBERT FISH**
**FISH & ASSOCIATES, PC**
**2603 MAIN STREET**
**SUITE 1050**
**IRVINE CA 92614**

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Keiichi Harada | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637349 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,355 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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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INNOVATION COUNSEL, LLP
21771 STEVENS CREEK BLVD
SUITE 200A
CUPERTINO, CA 95014

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sung-Min Kim, et al. | : | |
| Application No. 11/538,365 | : | DECISION GRANTING PETITION |
| Filed: October 3, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. PANK01946 US | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on June 4,2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries 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.

This application is being referred to Technology Center AU 2871 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/538,372 | 10/03/2006 | Ung Sik Kim | AB-1832 US | 1889 |

7590 04/13/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

| EXAMINER |
|---|
| SHALWALA, BIPIN H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/13/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
10/04/2006 INTEFSW 00000521 502257 11538372
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**APPLIED MATERIALS, INC**
**C/O SONNENSCHEIN, NATH & ROSENTHAL, L.L.P.**
**P.O. BOX 061080**
**WACKER DRIVE STATION, SEARS TOWER**
**CHICAGO, IL 60606-1080**

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SEP 15 2008

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|---|---|---|
| In re Application of | : | |
| Nehmadi et al. | : | |
| Application No. 11/538,387 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. 8317 D1 PDC/NPD/OR | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 1, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 2007. A Notice of Abandonment was mailed September 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed Oath/Declaration and the $130.00 late surcharge, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Liana Walsh
Petition Examiner
Office of Petitions

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United States Patent and Trademark Office
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Roberta Cuozzo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598116 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,390 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/538,397 | 10/03/2006 | Don-Chan Cho | AB-1905 US | 1939 |

7590 04/09/2009

Haynes and Boone, LLP
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Dallas, TX 75219

| EXAMINER |
|---|
| WILLIAMS, JOSEPH L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2889 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/09/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 NFARMER
10/04/2006 INTEFSW 00000630 502257 11538397
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**MORGAN, LEWIS &
BOCKIUS, LLP (SF)
ONE MARKET SPEAR
STREET TOWER
SAN FRANCISCO CA 94105**

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of<br>John R. Desjarlais et al<br>Application No. 11/538,406<br>Filed: October 3, 2006<br>Attorney Docket No. 067461-5032-US01 | :<br>:<br>:<br>:<br>:<br>: | DECISION DISMISSING PETITIONS UNDER 37 CFR 1.78(a)(3) AND (a)(6) |

This is a decision on the petition filed December 23, 2009, which is being 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 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

**(2)** the surcharge set forth in § 1.17(t); and

**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

| | |
|---|---|
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By internet: | EFS-Web<br>www.uspto.gov/ebc/efs_help.html<br>(for help using EFS-Web call the<br>Patent Electronic Business Center<br>at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAY 04 2010

OFFICE OF PETITIONS

**MORGAN, LEWIS & BOCKIUS, LLP**
**ONE MARKET SPEAR STREET TOWER**
**SAN FRANCISCO, CA 94105**

In re Application of
John R. Desjarlais et al
Application No. 11/538,406
Filed: October 3, 2006
Attorney Docket No. 067461-5032-US01

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and the Application Data Sheet (ADS).

The petition is **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 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 1644 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.

/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
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 |
|---|---|---|---|---|---|---|
| 11/538,406 | 10/03/2006 | 1644 | 715 | 067461-5032-US01 | 21 | 5 |

**CONFIRMATION NO. 1955**

**CORRECTED FILING RECEIPT**

67374
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

*OC000000041412961*

Date Mailed: 05/03/2010

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

**Applicant(s)**

John R. Desjarlais, Pasadena, CA;
Sher Bahadur Karki, Pasadena, CA;
Gregory Alan Lazar, Arcadia, CA;
John O. Richards, Monrovia, CA;
Gregory L. Moore, Pasadena, CA;
David F. Carmichael, Monrovia, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number 67374

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/741,966 12/02/2005
and claims benefit of 60/779,961 03/06/2006
and claims benefit of 60/745,078 04/18/2006
and claims benefit of 60/723,294 10/03/2005
and claims benefit of 60/723,335 10/03/2005
and claims benefit of 60/739,696 11/23/2005
and claims benefit of 60/750,699 12/15/2005
and claims benefit of 60/774,358 02/17/2006
and is a CIP of 11/396,495 03/31/2006
which claims benefit of 60/667,197 03/31/2005
and claims benefit of 60/705,378 08/03/2005
and claims benefit of 60/723,294 10/03/2005
and claims benefit of 60/723,335 10/03/2005
and is a CON of 10/822,231 03/26/2004 PAT 7,317,091
which is a CIP of 10/672,280 09/26/2003
which claims benefit of 60/477,839 06/12/2003

and claims benefit of 60/467,606 05/02/2003
and claims benefit of 60/414,433 09/27/2002
and claims benefit of 60/442,301 01/23/2003
and said 11/396,495 03/31/2006
is a CIP of 11/124,620 05/05/2005
and said 10/822,231 03/26/2004
is a CIP of 10/379,392 03/03/2003 ABN

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/538,406**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**Title**

Fc Variants With Optimized Fc Receptor Binding Properties

**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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/538,411 | 10/03/2006 | John R. Desjarlais | 5032-US02 | 1962 |

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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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 | : |
| Desjarlais et al | :Decision on Petition |
| Serial No.:11/538,411 | : |
| Filed: 3 October 2006 | : |
| Attorney Docket No.:067461-5032-US02 | : |

This letter is in response to the Petition filed on 4 May 2010 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 20 February 2009.

**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 did not traverse the restriction requirement.

**Election/Restrictions**

Applicants are required to elect one of the following inventions under 35 U.S.C § 121:

I. Claims 1-17,20, and 21, drawn to an Fc variant, classified in class 530, subclass 387.1.

II. Claims 18 and 19, drawn to a method of activation a Fc gamma receptor, classified in class 435, subclass 7.1.

Applicants elect Group I. Claims 1-17, 20 and 21 read on the elected claims.

**Species Election**

Applicant is further required to elect an Fc variant comprising a specific first and a specific second amino acid substitutions in specific positions of the Fc region (e.g. 234G as recited in claim 2).

In response, Applicants elect the following species: 330L and 332E, followed by 330Y and 332D. All of the claims read on the elected species.

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 traverse the restriction requirement in the election filed 17 July 2009, the petition will not be considered.

Applicants also argue that there is no requirement to "traverse" an election of species under MPEP 803.02. Applicants' further argue that there is no mechanism to even traverse or protest an election of species under MPEP 803.02 as this makes no sense.

This 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, 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 7 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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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gordon T. Davis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644233 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,445 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

**ANDREWS & KURTH, L.L.P.**
**600 TRAVIS, SUITE 4200**
**HOUSTON TX 77002**

**COPY MAILED**

MAR 3 1 2009

**OFFICE OF PETITIONS**

In re Application of
Arthur L. Smalley, III
Application No. 11/538,491
Filed: October 4, 2006
Attorney Docket No. SMA004NP/167875

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 26, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 2, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 2, 2009 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3633 for examination in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication

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 |
|---|---|---|---|
| 11/538,491 | 10/04/2006 | Arthur L. Smalley III | SMA004NP/167875 |

**CONFIRMATION NO. 2119**

23444
ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON, TX 77002

**NONPUBLICATION RESCISSION LETTER**

*OC000000035204787*

Date Mailed: 03/26/2009

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/02/2009.

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

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

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

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

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

/jolszewski/

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

McKEE, VOORHEES & SEASE PLC
ATTN: PENNSYLVANIA STATE UNIVERSITY
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

**COPY MAILED**

NOV 27 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kenneth S. Feldman | : | |
| Application No. 11/538,495 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | |
| Attorney Docket No. P04764US02 | : | |

This is a decision on the petition under 37 CFR 1.57(a), filed March 6, 2007, requesting that the above-identified application be accorded a filing date of October 4, 2006, with Figures 1-17 as a part of the original disclosure. The petition is being treated pursuant to the provisions of 37 CFR 1.53(e).

The petition is **granted**.

On October 4, 2006, this application was deposited without drawings. Accordingly, on January 26, 2007, the Office of Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application had been deposited without drawings. A two month period for reply was set.

In response, on March 6, 2007, the present petition and a copy of 17 sheets of drawings, along with an amendment to insert these drawings in the case, were filed.

Petitioner admits that Figures 1-17 were inadvertently omitted from the application papers filed on October 4, 2006, but states that this application contains a claim for benefit of priority under 35 U.S.C. § 120 of a prior-filed application; namely, Application No. 10/130,632, filed October 15, 2002, which is a National Phase of PCT/US00/31648, filed November 17, 2000, which is based on provisional Application Nos. 60/166,426, filed November 19, 1999; 60/181,002, filed February 8, 2000; and

60/213,662, filed June 23, 2000, which were "herein incorporated by reference in their entirety." Petitioner further states that prior-filed Application No. 10/130,632 was pending on the filing date of the present application, and the inadvertently omitted drawings were completely contained in the prior-filed application.

Petitioner's arguments and evidence have been considered. However, it is controlling that a review of the application confirms that, as filed, the application contained at least one method claim, as well as one composition claim. MPEP 601.01(f) provides that:

> It has been the practice of the USPTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Therefore, pursuant to MPEP 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application. In view of the above, the Notice mailed January 26, 2007 was mailed in error and is hereby withdrawn.

The Office should, instead, have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g), if an application is entitled to a filing date, the mailing of a Notice of Omitted Items will permit *inter alia*:

> If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFFR 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 omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR

1.57(a). The amendment should be submitted in response to the Office action and must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

To the extent the instant petition requests a filing date of October 4, 2006, with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded to petitioner's deposit account.

The Office of Patent Application Processing (OPAP) has been advised of this decision. Pursuant to this decision, the application has been referred to OPAP for:

- **correction of the filing date to October 4, 2006;**
- **for an indication in Office records, as appropriate, that "0" sheets of drawings were present on filing; and**
- **for issuance of a corrected filing receipt.**

Entry of the amendment filed March 6, 2007 to include the inadvertently omitted drawings will be considered by the examiner.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (571) 272-3218.

Brian Hearn
Petitions Examiner
Office of Petitions

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

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OCT 01 2008

**OFFICE OF PETITIONS**

In re Application of

CAIRNS, et al.
Application No. 11/538,552
Filed: October 4, 2006
Attorney Docket No. P5001R1C3

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 23, 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 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 as it 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.

The application became abandoned for failure to timely respond to the office action mailed December 28, 2007.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

CC: BELINDA CAIRNS
1229 PALOMA AVENUE
BURLINGAME, CA 94010

CC: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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www.uspto.gov

PRASS LLP
2661 Riva Road
Bldg. 1000, Suite 1044
ANNAPOLIS, MD 21401

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David Judson Simkins | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640537 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,577 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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HONEYWELL/BLG
Patent Services
101 Columbia Road
PO Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yasuo Ishihara | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626514 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,593 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **442** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**CORRIGAN LAW OFFICE**
**5 BRIARCLIFF CT**
**APPLETON WI 54915**

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JUN 02 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Davidson et al. | : | |
| Application No. 11/538,612 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | |
| Attorney Docket No. ITW 13885.61 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal dated September 14, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 15, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

| | | |
|---|---|---|
| In re Application of | : | |
| Hiroshi Watanabe | : | |
| Application No. 11/538,631 | : | DECISION GRANTING PETITION |
| Filed: October 4, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 297353US2SRD | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 18, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on August 12, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2815 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. |
|---|---|---|---|---|
| 11/538,642 | 10/04/2006 | Hitoshi YOSHIDA | 297350US2S | 2357 |

7590 03/11/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| BARRON JR, GILBERTO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/11/2009 | 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: 03/10/2009 BPOWELL
10/06/2006 INTEFSW 00000276 11538642
02 FC:1111 -500.00 OP

Repln. Ref: 03/10/2009 BPOWELL 0015010600
DA#:150461 Name/Number:11878725
FC: 9204 $500.00 CR



FORM PET651G (Rev. 08/07)

Adjustment date: 03/10/2009 BPOWELL
10/06/2006 INTEFSW 00000276 11538642
02 FC:1111 -500.00 OP

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mauro Chiari | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603198 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,665 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 11/06/08

**TO SPE OF** : ART UNIT 2831

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11538666 Patent No.: 7391223 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

_____
**Certificates of Correction Branch**
**703-308-9390 ext.** _____

**Thank You For Your Assistance**

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

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

**Comments:** /V.N./ 11/06/2008

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER 2831

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| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/538,669 | 10/04/2006 | 2877 | 865 | 624-07 | 3 | 2 |

**CONFIRMATION NO. 2390**

**CORRECTED FILING RECEIPT**

*OC000000026177120*

2746
WILLIAM H. EILBERG
THREE BALA PLAZA
SUITE 501 WEST
BALA CYNWYD, PA 19004

Date Mailed: 10/05/2007

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)**

Michael Trainer, Coopersburg, PA;

**Power of Attorney:**

William Eilberg--28009

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/598,443 08/30/2006
which is a 371 of PCT/US05/07308 03/07/2005
which claims benefit of 60/550,591 03/06/2004
This application 11/538,669
claims benefit of 60/723,639 10/05/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/05/2007

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/538,669**

**Projected Publication Date:** 10/18/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

METHODS AND APPARATUS FOR DETERMINING CHARACTERISTICS OF PARTICLES

**Preliminary Class**

356

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

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

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

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

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

**NOT GRANTED**

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

## Durham, Deshawn

**From:** Stokes, Tushombe
**Sent:** Monday, October 01, 2007 10:54 AM
**To:** Rich, Derek
**Cc:** Durham, Deshawn; Young, Monica
**Subject:** RE: Calls re: Publishing

I saw the projected publication date, but I wasn't sure what happens when an app issues before that date. Thanks for your help.

---

**From:** Rich, Derek
**Sent:** Monday, October 01, 2007 10:41 AM
**To:** Stokes, Tushombe
**Cc:** Durham, Deshawn; Young, Monica
**Subject:** Calls re: Publishing

Any publishing issues you can transfer to Pre-grant Publications at 703-605-4283. Also Publication date can be found on palm page last menu gray button to the rt.
(pre-grant pub)

I will call this customer.

---

**From:** Stokes, Tushombe
**Sent:** Monday, October 01, 2007 10:33 AM
**To:** Rich, Derek
**Cc:** Pinkney, Kay
**Subject:** RE: OIPE

Adam Sacharoff called about when this app will be published. The SN is 11/532,134. His number is (312) 521-2775. Thanks

304.05
70.30
304.35

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/17/09

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/538,680 Patent No.: 7,523,771

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (CofC)**

**Randolph Square**
**Palm Location 7580**

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

**703-756-1573**

**Thank You For Your Assistance**

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

☒ **Approved** — **All** changes apply.

**Approved in Part** — Specify below which changes **do not** apply.

**Denied** — State the reasons for denial below.

**Comments:** _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

6/18/09 3751

SPE Art Unit

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OFFICE OF PETITIONS

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

| | | |
|---|---|---|
| In re Application of | : | |
| Toby Freyman et al. | : | |
| Application No. 11/538,683 | : | DECISION ON PETITION |
| Filed: October 4,2006 | : | |
| Attorney Docket No. 05-01565 | : | |

This is a decision on the petition under 37 CFR 1.59(b), filed January 20, 2010, to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the set of claims filed September 4, 2009, be expunged from the record. Petitioner states that the information submitted was filed by an unknown party and the claims do not belong to this application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The claims were clearly meant for another, unrelated application.

The expunged material has been removed from the official file.

The application is forwarded to Technology Center Art Unit 3731.

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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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Matthews, et al. | : | |
| Application No. 11/538,717 | : | DECISION |
| Filed: 4 October, 2006 | : | ON PETITION |
| Attorney Docket No. MS1-2610USC2 | : | |

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 24 August, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 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 under 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 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.

Petitioner seeks to claim priority in the instant application filed on 4 October, 2006 (through Application No, 10/869,604 (the '604 application), filed on 16 June, 2004, and which issued as Patent No. 7,183,999 on 27 February, 2007) to Application No. 09/784,716 (the '716 application), filed on 15 February, 2001, and which issued as Patent No. 6,784,855 on 31 August, 2004. (The Examiner acknowledged and accepted the priority claim of the '604 application to the '716 application in the Notice of Allowance of the '716 application on 28 July, 2006.)

The petition complies with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference, surcharge and statement.

All the above requirements having been satisfied, the late claim for benefit of 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 C.F.R. § 1.78(a)(3) 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. 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(4) 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 application, accompanies this decision on petition.

This application is being referred to Technology Center/AU 2629 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.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT** : Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/538,717 | 10/04/2006 | 2629 | 1380 | MS1-2610USC2 | 21 | 4 |

**CONFIRMATION NO. 2468**

**REPLACEMENT FILING RECEIPT**

22801
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

*OC000000039334372*

Date Mailed: 12/23/2009

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

**Applicant(s)**

Joseph H. Matthews, Woodinville, WA;
Richard W. Stoakley, Seattle, WA;

**Assignment For Published Patent Application**

Microsoft Corporation, Redmond, WA

**Power of Attorney:** The patent practitioners associated with Customer Number 22801

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/869,604 06/16/2004 PAT 7,183,999
which is a CON of 09/784,716 02/15/2001 PAT 6,784,855

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/04/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/538,717**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHODS AND SYSTEMS FOR A PORTABLE, INTERACTIVE DISPLAY DEVICE FOR USE WITH A COMPUTER

**Preliminary Class**

345

## 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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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jesse Kenneth Simmons | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591870 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,726 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Cindy A. Sprecher | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7629452 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,735 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : BERNHARD BRENDEL | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7666277 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,739 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **498** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**Paul, Hastings, Janofsky & Walker LLP**
**875 15th Street, NW**
**Washington, D.C. 20005**

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JUN 30 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frano Luburic | : | |
| Application No. 11/538,773 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 30027.007.00 | : | FROM RECORD |
| | : | |

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

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

A review of the file record indicates that the power of attorney to Paul, Hastings, Janofsky, & Walker LLP has been revoked by the assignee of the patent application on June 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McKenna Long & Aldridge LLP**
**1900 K Street, N.W.**
**Washington, DC 20006**

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**Rajeev Madnawat**
**TM Patent Group**
**P.O. Box 360011**
**Milpitas, CA 95036**

**COPY MAILED**

SEP 19 2007

**OFFICE OF PETITIONS**

In re Application of

Resh Wallaja et al.
Application No. 11/538,792
Filed: October 4, 2006
Attorney Docket No. 1002.P001

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 4, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Resh Wallaja**
**488 University Ave, #301**
**Palo Alto, CA 94301**

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**Rajeev Madnawat**
**TM Patent Group**
**P.O. Box 360011**
**Milpitas, CA 95036**

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Resh Wallaja | : | |
| Application No. 11/538,792 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 1002.P001 | : | FROM RECORD |
| | : | |

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 23, 2007.

The request is **APPROVED**.

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

The request was signed by Rajeev Madnawat 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 Resh Wallaja 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: **Resh Wallaja**
**488 University Ave, #301**
**Palo Alto, CA 94301**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/538,792 | 10/04/2006 | Resh Wallaja | 1002.P001 |

**CONFIRMATION NO. 2584**

*OC000000026055801*

55362
RAJEEV MADNAWAT
TM PATENT GROUP
P.O. BOX 360011
MILPITAS, CA 95036

Date Mailed: 09/27/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/23/2007.

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

---

Gerri Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Adrian E. Ong | : | |
| Application No. 11/538,799 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | TO WITHDRAW |
| Attorney Docket No. PA3912US | : | 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 3, 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 22830 has been revoked by the Assignee of the patent application on May 6, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: PVF -- RAMBUS, INC.
c/o PARK, VAUGHAN & FLEMING, LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

**COPY MAILED**

MAY 25 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Robert E. Puishys Jr. et al. | : | |
| Application No. 11/538,871 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | |
| Attorney Docket No.: | : | |
| 063170.8920 | : | |
| Title: METHOD AND SYSTEM FOR | : | |
| MANAGING PERFORMANCE DATA | : | |

This is a decision on the petition filed February 13, 2007, requesting that the above-identified application be accorded a filing date of October 5, 2006, with Figure 1B included as part of the original disclosure.

The application was deposited on October 5, 2006. However, on January 8, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date of October 5, 2006, and advising applicants that the application appeared to have been deposited without Figure 1B. The notice set a two-month period for response.

In response, on February 13, 2007, applicants filed the present petition along with a copy of Figure 1B and the petition fee.

It is noted that the notice set forth two options for the applicant. The first option indicated that if the applicant wished to contend that the missing figure was present at the time of filing, a petition would need to be filed. The second option indicated that a petition would be required should the applicant

decide to supply the omitted item at a later date and accept this later date as his filing date.

With the present petition, it appears that Petitioner seeks a third option - he has attempted to introduce a figure which was not present on filing[1], yet wishes to retain the original filing date of October 5, 2006.

This cannot be done.

It is clear that Figure 1B was not present on filing. Petitioner has two options - Figure 1B, which was not present on filing, can be entered into the record if he accepts the date of its receipt, February 13, 2007, as the filing date for the present application. Alternatively, the application can retain a filing date of October 5, 2006, and Figure 1B will not be entered into the record.

With the present petition, Petitioner has set forth, over his registration number, that the inclusion of this drawing "does not add any new subject matter to the present application." Petitioner should note that the acceptance of a filing date of October 5, 2006 without the entry of this drawing does not preclude him from filing an amendment to present this figure at a later date via the filing of an amendment which requests its entry. Any such amendment will, of course, be reviewed by the examiner for new matter[2].

As it is not clear which option Petitioner would prefer, the present petition must be **DISMISSED**.

Figure 1B will not be entered at the present time.

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 Under 37 C.F.R. 1.53". 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[3], hand-delivery[4], or facsimile[5].

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1 Petitioner has set forth that Figure 1B was "previously omitted."
2 See MPEP 608.02(h) and 608.04.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. 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**

---

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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 |
|---|---|---|---|
| 11/538,891 | 10/05/2006 | John E. Boisseau | IN-5846 |

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

DATE MAILED: April 2, 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 March 23, 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
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/538,891 | 10/05/2006 | John E. Boisseau | IN-5846 |

CONFIRMATION NO.
6956

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

Date Mailed: March 28, 2007

## Decision Dismissing Petition under 37 CFR 1.138(c)
*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Horst Weigel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7670986 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,898 | : OF WYETH |
| **Filed** | : 10/05/2006 | : |
| | | : |

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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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Patrick J. McCormick | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7666671 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,905 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : 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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**Heller Ehrman, LLP**
**4350 La Jolla Village Drive**
**7th Floor**
**San Diego, CA 92122**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Leslie Bruce Wilner | : | |
| Application No. 11/538,909 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 39898-1045 | : | 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 July 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Leslie B. Overman, on behalf of all attorneys/agents associated with customer number 25213. All attorneys/agents 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. Accordingly, all correspondence will be mailed to the first signing inventor at the address noted on the oath and declaration. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If this firm would like to receive future correspondence, the proper power of attorney documents must be submitted or if an assignee has intervened compliance with 37 CFR 3.73(b) must be satisfied.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Leslie Bruce Wilner
842 Marshall Drive
Palo Alto, CA 94303

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/538,909 | 10/05/2006 | Leslie Bruce Wilner | 39898-1045 |

**CONFIRMATION NO. 2789**

**POWER OF ATTORNEY NOTICE**

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

*OC000000032374428*

Date Mailed: 10/01/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/08/2008.

- 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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**Kapali Eswaran**
**C/O Integrated Informatics Inc.**
**1875 Old Alabama Road**
**Suite 725**
**Roswell GA 30076**

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Kapali Eswaran :
Application No. 11/538,925 :
Filed: October 5, 2006 :
Attorney Docket No. :
:

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 13, 2010, 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 inventor Kapali Eswaran attesting to his age. The above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2169 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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ROCHE DIAGNOSTICS OPERATIONS INC.
9115 Hague Road
Indianapolis, IN 46250-0457

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Albert Geiger | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7662920 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,940 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 07/26/2010

| | | |
|---|---|---|
| **Applicant** | : Hamid Samavati | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650173 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,952 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **567** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington DE 19899

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Nicholas M. Romansky | : | |
| Application No. 11/538988 | : | |
| Filing or 371(c) Date: 10/05/2006 | : | |
| Attorney Docket Number: | : | DECISION |
| 13490-00003-US | : | ON PETITION |

This is a decision on the "Petition Pursuant to 37 C.F.R. § 1.57(a)(3)", filed January 17, 2007, requesting the above-identified application be accorded a filing date of October 5, 2006, including one Figure, based upon a priority claim for the benefit of prior-filed applications under 37 CFR 1.78.

The petition is dismissed.

Background

The application was filed on October 5, 2006. On January 8, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant, *inter alia*, that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and request inclusion of the inadvertently omitted drawing Figure, based upon a priority claim to a prior-filed application in accordance with 37 CFR 1.57(a).

According a Filing date

A review of the file reveals that the specification contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition 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).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice mailed January 8, 2007, was mailed in error and is hereby withdrawn.

Petition under 37 CFR 1.57(a)

The MPEP 601.01(f) further provides that

> As an alternative to a petition under 37 CFR 1.53(e), if the drawing(s) was inadvertently omitted from an application filed on or after September 21, 2004, and the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 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 drawing(s) is completely contained in the prior-filed application, the applicant may submit the omitted drawing(s) by way of an amendment in compliance with 37 CFR 1.57(a). The amendment must be by way of a petition under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. (Emphasis supplied).

Applicant is advised that a petition is not necessary in this instance to add the omitted figures.

37 CFR 1.57(a), incorporation by reference, provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s). However, where a filing date has been accorded an application, a petition is not necessary to add the omitted portion of the specification or drawing(s). "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)." 37 CFR 1.57(a)(3). (Emphasis supplied). *See*, *Also*, MPEP 201.17(F).

The Manual of Patent Examining Procedure ("MPEP") also provides that

> ...37 CFR 1.57(a) was added to provide a safeguard for applicants when a page(s) of the specification, or a portion thereof, or a sheet(s) of the drawing(s), or a portion thereof, is inadvertently omitted from an application, such as through a clerical error. 37 CFR 1.57(a) applies to applications filed on or after September 21, 2004. 37 CFR 1.57(a) permits inadvertently omitted material to be added to the application by way of a later filed amendment if the inadvertently omitted portion of the specification or drawing(s) is completely contained in a prior-filed application (for which priority/benefit is claimed) even though there is no explicit incorporation by reference of the prior-filed application. *See* MPEP § 201.17 for discussion regarding 37 CFR 1.57(a). *See* MPEP § 601.01(p). (Emphasis supplied).

MPEP 201.06(c)(IV)(B).

Applicant may add the omitted figure by way of amendment under 37 CFR 1.57, and without a petition. The issue of new matter is one appropriately addressed by the Examiner.

In view of the fact that the petition was necessitated by an error on the part of this Office, a refund of the petition fee has been scheduled via Treasury Check.

The application will be returned to the Office of Initial Patent Examination for withdrawal of the Notice of Incomplete Provisional Application mailed January 8, 2007; for mailing of a Notice of Omitted Item(s), and for further processing as a nonprovisional application with a filing date of October 5, 2006, using the application papers filed on that date.

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

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin, TX 78701

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Zillmer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649273 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/538,998 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Didier Rossel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654485 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/538,999 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

**HAYNES AND BOONE, LLP**
**901 MAIN STREET, SUITE 3100**
**DALLAS TX 75202**

**COPY MAILED**

MAY 03 2007

**OFFICE OF PETITIONS**

In re Application of

**KARMONIK,** Christof
Application No. 11/539,004
Filed: October 05, 2006
Attorney Docket No. **37182.20**

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 06, 2007 and re-submitted on February 20, 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, transfer of files 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: **TODD MATTINGLY**
**KING & SPALDING, L.L.P.**
**1100 LOUISIANA**
**SUITE 4000**
**HOUSTON, TX 77002**

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

Mail Date: 05/17/2010

| | | |
|---|---|---|
| **Applicant** | : Ramanand Venkata | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646217 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/539,006 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **8** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Date Mailed : March 18, 2008
Serial No. : 11/539007
Patent No. :7,440,540 B2
Patent Issued : October 21, 2008
Inventor(s) :Bassel Kano
Title : STEREOSCOPIC X-RAY SYSTEM AND METHOD

Re: Request for Certificate of Correction

A petition under C.F.R. 1.182 is required to correct the alleged error in an inventor's address, since the inventor's address is printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicant's failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

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

Any petition under 37 CFR 1.182 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 and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
FAX 571-270-9942

Hickman Palermo Truong & Becker LLP
2055 Gatgeway Place, Ste. 550
San Jose, CA 95110-1083

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : March 18, 2008
Serial No. : 11/539007
Patent No. :7,440,540 B2
Patent Issued : October 21, 2008
Inventor(s) :Bassel Kano
Title : STEREOSCOPIC X-RAY SYSTEM AND METHOD

Re: Request for Certificate of Correction

A petition under C.F.R. 1.182 is required to correct the alleged error in an inventor's address, since the inventor's address is printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicant's failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

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

Any petition under 37 CFR 1.182 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 and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
FAX 571-270-9942

FOLEY HOAG LLP
155 Seaport Blvd
Boston, Massachusetts 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Patent Issued : November 27, 2007
Date Mailed : May 19, 2009
Serial No. : 11/539007
Patent No. :7,302,065 B2
Inventor(s) :Satoru Furuta
Title :NOISE SUPPRESSOR

Re: Request for Certificate of Correction

In reference to the disclaimer notice not being printed in the patent, since inspection of the application file does not reveal any disclaimer that would require such notice to be printed on the printed patent, your submission of evidence, such as a copy of the disclaimer dated Nov. 27, 2007, would be appropriate for further consideration in this matter.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
FAX 571-270-9942

Oblon, Spivak,
McClelland Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

MD/mt

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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. |
|---|---|---|---|---|
| 11/539,008 | 10/05/2006 | Nobuyuki SUZUKI | 297437US2S | 2961 |

7590 05/11/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| TRAN, THAI Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/11/2009 | 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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 05/07/2009 BPOWELL
10/06/2006 INTEFSW 00000268 11539008
02 FC:1111 -500.00 OP

Adjustment date: 05/07/2009 BPOWELL
10/06/2006 INTEFSW 00000268 11539008
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Refund Ref:
05/07/2009 0030069833

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Credit Card Refund Total: $500.00

Ag Exp..: XXXXXXXXXXX1009

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

MAILED

JUL 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al. | : | |
| Application No. 11/539,013 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 09-570-US-CON-2 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed May 19, 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 69588 has been revoked by the assignee of the patent application on July 13, 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: McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

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SEP 16 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent of Singh et al. | : | Letter Regarding |
| Patent No. 7,498,435 | : | Patent Term Adjustment |
| Issue Date: March 3, 2009 | : | |
| Application No. 11/539,018 | : | |
| Filing Date: October 5, 2006 | : | |
| Attorney Docket No. 064311-1562 | : | |

This letter is in response to the "Communication Regarding Patent Term Adjustment" filed April 20, 2009. Pursuant to their duty of good faith and candor to the Office, patentees request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **dismissed**.

Although patentees indicate there may be an error in the calculations of patent term adjustment, patentees state the zero days of patent term adjustment listed on the patent is correct.

Given that the alleged error(s) in calculation of patent term adjustment would not change the patent term adjustment indicated on the patent, it is determined no further action is required by the Office.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the $200.00 fee under 37 CFR 1.18(e) is unnecessary. The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

MAILED

JUL 01 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al. | : | |
| Application No. 11/539,029 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 064311-1563 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 19, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Gerald F. Swiss on behalf of all attorneys of record who are associated with Customer No. 69588.

All attorneys/agents associated with the Customer No. 69588 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 Rigel Pharmaceuticals, Inc., at the address indicated in the request.

There is an outstanding Office action mailed April 7, 2009, 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,029 | 10/05/2006 | Rajinder SINGH | 064311-1563 |

**CONFIRMATION NO. 3003**

**POWER OF ATTORNEY NOTICE**

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

*OC000000036733815*

Date Mailed: 07/01/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/jlburke/

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

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Marie W. Wooten | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7608412 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,035 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Bruce L. Zamost | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7622561 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,045 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **271** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUN 23 2009

OFFICE OF PETITIONS

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

| | | |
|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al. | : | |
| Application No. 11/539,049 | : | DECISION ON |
| Filed: October 5, 2006 | : | PETITION TO WITHDRAW |
| Attorney Docket No. 064311-1566 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **APPROVED**.

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

The request was signed by Gerald F. Swiss on behalf of attorney/agents associated with customer number 69588. All attorneys/agents associated with customer number 69588 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,049 | 10/05/2006 | Rajinder Singh | 064311-1566 |

**CONFIRMATION NO. 3034**

**POWER OF ATTORNEY NOTICE**

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

*OC000000036606743*

Date Mailed: 06/23/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/kainabinet/

---

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAILED Paper No.

JUN 22 2010

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102-3702

| | | |
|---|---|---|
| In re Application of | : | |
| Meyer | : | |
| Application No. 11/539,055 | : | ON APPLICATION FOR |
| Filed: October 5, 2006 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 02-12D3 | : | |
| Title: COMPOSITIONS OF IL-21 | : | |
| PRODUCED IN PROKARYOTIC HOSTS | : | |

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 28, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred and nineteen (519) days, not three hundred (300) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 26-0290 in due course, as authorized on the third page of this petition. No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : SCOTT R. PRESNELL | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7608452 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,064 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : 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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1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : SCOTT R. PRESNELL | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7601809 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,072 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : 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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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 05/18/2010

**Applicant** : SCOTT R. PRESNELL
**Patent Number** : 7601809
**Issue Date** : 10/13/2009
**Application No** : 11/539,072
**Filed** : 10/05/2006

: 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 **18** 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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RIGEL PHARMACEUTICALS INC.
C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

| | | |
|---|---|---|
| In re Application of | : | |
| Singh, et al. | : | LETTER REGARDING PTA |
| Application No. 11/539,074 | : | |
| Filed: October 5, 2006 | : | |
| Atty. Dkt. No.: 064311-2103 | : | |

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed April 14, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed January 15, 2009 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 280 days. Applicants disagree with this adjustment and assert that the correct adjustment is 154 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 154 days, as indicated by applicants.

The application was properly accorded an adjustment of 280 days in accordance with 37 CFR 1.702(a)(1). The Office neglected to assess a reduction in connection with the reply to the missing parts Notice mailed February 1, 2007. The reduction commenced May 2, 2007, the day after the date that is three months after the date that the Notice was mailed, and ended September 4, 2007, the date that the reply was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 154 days (adjustment totalling 280 less reduction totalling 126 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward 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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 6/14/2009

PALM INTRANET

Time: 11:50:58

| PTA Calculations for Application: 11/539074 | | | |
|---|---|---|---|
| Application Filing Date: | 10/05/2006 | PTO Delay (PTO): | 280 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 0 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 154 |
| PTO Delay Adjustment: | -126 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 61 | 06/14/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 126 | |
| 44 | 01/15/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 43 | 01/14/2009 | DOCUMENT VERIFICATION | | | |
| 42 | 01/14/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 41 | 01/14/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 40 | 11/20/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 39 | 12/31/2008 | NOTICE OF ALLOWABILITY | | | |
| 36 | 11/20/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 35 | 12/27/2008 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 12/08/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 32 | 11/20/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 31 | 10/24/2008 | MAIL NON-FINAL REJECTION | | | |
| 30 | 10/22/2008 | NON-FINAL REJECTION | | | |
| 29 | 07/22/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 28 | 10/16/2008 | DATE FORWARDED TO EXAMINER | | | |
| 27 | 10/10/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 26 | 09/10/2008 | MAIL RESTRICTION REQUIREMENT | 280 | | -1 |
| 25 | 09/09/2008 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 24 | 09/02/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 08/27/2008 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 22 | 07/22/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 21 | 07/22/2008 | PRELIMINARY AMENDMENT | | | |
| 20 | 07/22/2008 | PRELIMINARY AMENDMENT | | | |
| 19 | 07/30/2008 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 18 | 07/22/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 09/20/2007 | APPLICATION DISPATCHED FROM OIPE | | | |
| 16 | 09/13/2007 | SENT TO CLASSIFICATION CONTRACTOR | | | |
| 14 | 09/13/2007 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 11 | 09/04/2007 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 7 | 09/04/2007 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 6 | 02/01/2007 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 5 | 01/30/2007 | CLEARED BY L&R (LARS) | | | |
| 4 | 12/20/2006 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 3 | 12/20/2006 | CASE CLASSIFIED BY OIPE | | | |
| 2 | 12/18/2006 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/05/2006 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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

Back to OASIS | Home page

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**Patrea L. Pabst**
**Pabst Patent Group LLP**
**400 Colony Square, Suite 1200**
**1201 Peachtree Street**
**Atlanta, GA 30361**

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| | | |
|---|---|---|
| In re Application of | : | |
| Trent Poole et al. | : | |
| Application No. 11/539,082 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. PDC 124 CON (2) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 7, 2007.

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

A review of the file record indicates that the power of attorney to Pabst Patent Group LLP has been revoked by the assignee of the patent application on January 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kirkpatrick & Lockhart**
**Preston Gates Ellis LLP**
**1900 Main Street, Suite 600**
**Irvine, CA 92614-7319**

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

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| | | |
|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al. | : | |
| Application No. 11/539,101 | : | DECISION ON |
| Filed: October 5, 2006 | : | PETITION TO WITHDRAW |
| Attorney Docket No. 064311-1605 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **APPROVED**.

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

The request was signed by Gerald F. Swiss on behalf of attorney/agents associated with customer number 69588. All attorneys/agents associated with customer number 69588 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

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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 |
|---|---|---|---|
| 11/539,101 | 10/05/2006 | Rajinder Singh | 064311-1605 |

**CONFIRMATION NO. 3113**

**POWER OF ATTORNEY NOTICE**

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

*OC000000036606531*

Date Mailed: 06/23/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/kainabinet/

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

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Matthias Stommel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638894 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,127 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Carlos A. Serrano-Morales | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613671 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,138 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **259** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

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

MAILED

JUN 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al | : | |
| Application No. 11/539,142 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 064311-1704 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **APPROVED**.

The request was signed by Gerald F. Swiss on behalf of all attorneys of record who are associated with customer No. 69588.

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

All future correspondence will be directed to assignee Rigel Pharmaceuticals, Inc at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

**COPY MAILED**

FEB 19 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Simon LOK | : | |
| Application No. 11/539,157 | : | DECISION ON PETITION |
| Filed: October 5, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 74356-200701/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 January 3, 2008.

The request is **APPROVED**.

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

The request was signed by attorney John P. Ward on behalf of all attorneys/agents of record associated with Customer Number 64494.

All attorneys/agents of record associated with Customer Number 64494 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 inventor at the first copied address below until otherwise properly notified by the applicant.

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SIMON LOK
1165 19TH STREET
VERO BEACH, FL 32960

KEENAN KLINGER
LOK TECHNOLOGY, INC.
2001 GATEWAY PLACE
SUITE 500W
SAN JOSE, CA 95110

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 |
|---|---|---|---|
| 11/539,157 | 10/05/2006 | Simon LOK | 74356-200701/US |

**CONFIRMATION NO. 3203**

**POWER OF ATTORNEY NOTICE**

*OC000000028354747*

64494
GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

Date Mailed: 02/19/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2008.

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

/dcgoodwyn/

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

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

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of
Simon LOK
Application No. 11/539,157
Filed: October 5, 2006
Attorney Docket No. 74356-200701/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 January 3, 2008.

The request is **APPROVED**.

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

The request was signed by attorney John P. Ward on behalf of all attorneys/agents of record associated with Customer Number 64494.

All attorneys/agents of record associated with Customer Number 64494 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 inventor at the first copied address below until otherwise properly notified by the applicant.

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SIMON LOK
1165 19TH STREET
VERO BEACH, FL 32960

KEENAN KLINGER
LOK TECHNOLOGY, INC.
2001 GATEWAY PLACE
SUITE 500W
SAN JOSE, CA 95110

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,157 | 10/05/2006 | Simon LOK | 74356-200701/US |

**CONFIRMATION NO. 3203**

**POWER OF ATTORNEY NOTICE**

*OC000000028354747*

64494
GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

Date Mailed: 02/19/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2008.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Albert J. Baker | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656836 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,162 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **790** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

| | | |
|---|---|---|
| In re Application of | : | |
| Gilman, et al. | : | |
| Application No. 11/539,168 | : | ON PETITION |
| Filed: October 5, 2006 | : | |
| Attorney Docket No. RQTV-1-1012 | | |

This is a decision on the petition to withdraw the holding of abandonment, filed October 22, 2008.

The petition is **DISMISSED**.

The application became abandoned on August 6, 2007, after a complete and proper response was not received to the Notice to File Missing Parts of Non-provisional Application mailed January 5, 2007, which set a shortened period for reply of two-months from its mailing date. The notice required payment of the filing fee and a surcharge for the late payment of the same, and a properly executed oath or declaration under 37 CFR 1.63. A response was filed on August 6, 2007, with a request for an extension of time within the fifth month. It is noted that the response was filed on the last possible day for response to the Notice to File Missing Parts of Non-Provisional Application. A Notice of Incomplete Reply was mailed on August 10, 2007, indicating that the filing fee was not received and that the declaration filed August 6, 2007, was missing the signature of inventor Gilman. A Notice of Abandonment was mailed September 11, 2008.

It is noted that the Notice to File Missing Parts of Non-Provisional Application set a shortened period for reply of two months from its mailing date of January 5, 2007. Extensions of time under 37 CFR 1.136(a) were available for an additional five months following that date. Petitioner is obligated to file a complete and proper response to the Notice within the maximum period set for reply to the Notice. In this case, a complete and proper response would have consisted of the filing fee, surcharge, and a properly executed oath or declaration all of which must have been filed by August 5, 2007, assuming the proper extension of time fees were paid. Petitioner did not file a response to the Notice to File Missing Parts of Non-Provisional Application until August 6, 2007—the last possible day for response to the notice allowing no time for the USPTO to inform petitioner of deficiencies in the response. Further, the response filed August 6, 2007, was incomplete in that the declaration was missing the signature of inventor Gilman and the filing fee was not paid. The application was properly abandoned on October 6, 2007, because a complete and proper response to the Notice to File Missing Parts was not of record.

Petitioner is further advised that the mailing of the Notice of Incomplete Reply is a courtesy to applicants to inform that a reply submitted is incomplete and no new period for response is set by this notice. It is noted that the mailing of the Notice of Incomplete Reply was not particularly helpful in this case because the application was already abandoned when the notice was mailed. The mailing of the Notice of Incomplete Reply has no bearing, however, on the period set for reply by the Notice to File Missing Parts

of Non-Provisional Application. The application was properly abandoned as a complete and proper response to the Notice of January 5, 2007, was not timely received.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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 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
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

COPY MAILED
FEB 17 2009
OFFICE OF PETITIONS

In re Application of
Gilman, et al.
Application No. 11/539,168
Filed: October 5, 2006
Attorney Docket No. RQTV-1-1012

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2009.

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

The application became abandoned on August 6, 2007, after a complete and proper response was not received to the Notice to File Missing Parts of Non-provisional Application mailed January 5, 2007, which set a shortened period for reply of two-months from its mailing date. The notice required payment of the filing fee and a surcharge for the late payment of the same, and a properly executed oath or declaration under 37 CFR 1.63. A response was filed on August 6, 2007, with a request for an extension of time within the fifth month. It is noted that the response was filed on the last possible day for response to the Notice to File Missing Parts of Non-Provisional Application. A Notice of Incomplete Reply was mailed on August 10, 2007, indicating that the filing fee was not received and that the declaration filed August 6, 2007, was missing the signature of inventor Gilman. A Notice of Abandonment was mailed September 11, 2008.

The filing fee and declaration of inventor Gilman filed December 21, 2007, are noted.

This application is being forwarded to the Office of Patent Application Processing for further review.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/539,174 | 10/06/2006 | Murphy J. Cormier | 0004.0025 | 3228 |

56500 7590 01/25/2007
EMERGING STRATEGIES, PLLC
5440 31ST STREET, N.W.
WASHINGTON, DC 20015-1346

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1724 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/25/2007 | PAPER |

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CST

1-25-07

| | | |
|---|---|---|
| In re application of<br>Murphy J. Cormier et al<br>Serial No. 11/539,174<br>Filed: October 6, 2006<br>For: APPARATUS FOR AND METHOD OF DOSING A WASTEWATER TREATMENT SYSTEM | :<br>:<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the PETITION TO MAKE APPLICATION SPECIAL, filed on October 24, 2006 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

First, the application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete and in condition for examination, at the time of filing. Specifically, note the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed January 11, 2007, which states that the oath or declaration is missing.

Furthermore, note that the petition to make special was filed via facsimile on October 24, 2006, and not via EFS or EFS-Web on the filing date of October 6, 2006. MPEP 708.02(a), section I, subsection I requires that the petition must be filed with the application. MPEP 708.02(a), section I, subsection (C) requires that the petition must be filed using the EFS or EFS-Web.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

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

Any inquiry regarding this decision should be directed to Christine Tierney, Special Programs Examiner, at (571) 272-1055.

Christine Tierney

Christine Tierney
Special Programs Examiner
Technology Center 1700

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

*IN RE* UTILITY PATENT APPLICATION OF:

| | | |
|---|---|---|
| APPLICANTS | : | **Cormier *et al.*** |
| SERIAL NO. | : | **11/539,174** |
| FILED | : | **October 6, 2006** |
| EXAMINER | : | **Unassigned** |
| ART UNIT | : | **1724** |
| FOR | : | **Apparatus For And Method Of Dosing A Wastewater Treatment System** |
| CUSTOMER NO. | : | **56500** |
| DATE | : | **March 9, 2007** |

CERTIFICATE OF ELECTRONIC FILING

I certify that this correspondence is being filed in the United States Patent and Trademark Office via the Web-based electronic filing system (EFS-Web), under 37 C.F.R. §1.6, on March 9, 2007.

William A. Bonk, III

MAIL STOP PETITION
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION TO MAKE APPLICATION SPECIAL**
**35 U.S.C. §131; 37 C.F.R. §1.102**

Applicants petition to make special to advance out of turn for examination or further action the above-identified Application because at least one of Applicants is at least 65 years old.

Because this Petition is filed on the basis of Applicant's age, rule changes promulgated on June 20, 2006, effective August 25, 2006, do not apply to consideration thereof.

Applicants submit an Affidavit in support of this Petition.

This petition is submitted without any fee, under 37 C.F.R. §1.102(c).

No statutorily-prescribed time limit applies for filing this paper, thus no fees are owing. If filing this paper or any accompanying paper necessitates fees not otherwise



**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700
MAR 1 0 2007

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Klaus Jansen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7571501 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,183 | : OF WYETH |
| **Filed** | : 10/06/2006 | : |
| | | : |

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 13 2008

Reinhart Boerner Van Deuren P.C.
2215 Perrygreen Way
Rockford, Illinois 61107

| | | |
|---|---|---|
| In re Application of<br>Wade A. Burdick et al.<br>Application No. 11/539,216<br>Filed: October 6, 2006<br>For: DYNAMIC SEALING ARRANGEMENT FOR MOVABLE SHAFT | :<br>:<br>:<br>:<br>:<br>: | RESPONSE TO PETITION FILED UNDER 37 CFR 1.181(a) |

This is a response to the petition under 37 CFR 1.181(a), filed September 30, 2008, to designate the grounds of rejection set forth in the Examiner's Answer of August 12, 2008 as a new grounds of rejection in accordance with MPEP 1207.03(IV).

The petition is **GRANTED**.

In the Examiner's Answer mailed on August 12, 2008, the examiner relied upon an English translation of Japanese Publication No. JP 60136605 which had not been previously provided to the applicant. Previous to the Examiner's Answer the examiner had rejected the claims based on the English abstract of the reference as provided by Applicant on a PTO-1449 dated September 24, 2007.

Applicant has argued that merely using an English translation of the reference instead of just the English abstract constitutes a new grounds of rejection in the Examiner's Answer. However, Applicant is reminded that the English abstract and the English translation of the reference are considered to be the same reference thus changing from one to the other in itself does not constitute a new grounds of rejection. Further, the reference was cited by the Applicant and thus Applicant is considered to have full knowledge of said reference.

Applicant has further argued that in the Office Actions prior to the Examiner's Answer the examiner relied upon port connecting chamber **11** and sensor mechanism **7** and in the Examiner's Answer relied upon port connecting chamber **11 or 12** and sensor mechanism **10** thus presenting new grounds of rejection. As this interpretation of the reference had not been previously presented it is agreed that this would constitute new grounds of rejection in the Examiner's Answer.

Therefore, the Examiner's Answer mailed August 12, 2008 was flawed in that the grounds of rejection were not designated as a new grounds of rejection and the approval of the Technology Center Director was not obtained.

Therefore, Applicant's request that the grounds of rejection set forth in the Examiner's Answer of August 12, 2008 be designated as a new grounds of rejection is granted.

The application is being forwarded to the examiner for the issuance of a corrected Examiner's Answer.

**SUMMARY**: The Petition is **GRANTED**.

Any questions regarding this letter should be directed to Jennifer H Gay at (571) 272-7029.

Frederick Schmidt, Director
Patent Technology Center 3600
(571) 272-5150

FS/jg: 10/29/08
R

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KRISTINA M GRASSO
KRISTINA M GRASSO ESQ PLLC
PO BOX 162
MILFORD NH 03055

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SEP 22 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Anthony J. DeCologero | : | |
| Application No. 11/539,229 | : | ON PETITION |
| Filed: October 6, 2006 | : | |
| Attorney Docket No. NPH001-US | : | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 21, 2008.

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

The application was held abandoned due to failure to timely file a reply to the non-final Office action mailed February 7, 2008. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on August 19, 2008, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment filed August 6, 2008. The Amendment was made timely by obtaining a three month extension of time.

The matter is being forwarded to Group Art Unit 3764 for consideration of the Amendment filed August 6, 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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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Lloyd I. Towne | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7631725 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,241 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : 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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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Theodore E. Whitmore | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618791 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,286 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **48** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CST

10/26/06

In re application of
Frederick Joslin
Serial No. 11/539,290
Filed: October 6, 2006
For: APPARATUS AND METHOD FOR WHITE LAYER AND RECAST REMOVAL

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on October 6, 2006 to make the above-identified application special under the accelerated examination program. A statement by applicant under 37 CFR 1.102(c ) concerning applicant's age was included as well.

The petition to make the application special under the accelerated examination program is **DENIED.**

The petition to make the application special based on applicant's age is **GRANTED.**

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program.

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

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) on or after August 25, 2006;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application contains more than twenty total claims.

For the above-stated reasons, the petition for accelerated examination is denied.

The petition to make special based upon applicant's age, however, is granted.

Any inquiry regarding this decision should be directed to Christine Tierney, Special Programs Examiner, at (571) 272-1055.

Christine Tierney

Christine Tierney
Special Programs Examiner
Technology Center 1700

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FAY SHARPE LLP
1100 SUPERIOR AVENUE,
SEVENTH FLOOR
CLEVELAND OH 44114

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| | | |
|---|---|---|
| In re Application of | : | |
| Hollis N. White Jr. | : | |
| Application No. 11/539,299 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. WHHD 2 00059 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 20, 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 by applicant Hollis N. White Jr. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3618 for action on the merits commensurate with this decision.

April Wise
Petitions Examiner
Office of Petitions

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

Mail Date: 05/24/2010

| | | |
|---|---|---|
| **Applicant** | : Badri Amurthur | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664548 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/539,301 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **272** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PALM INTRANET

Day : Thursday
Date: 9/17/2009

Time: 13:36:22

# Inventor Name Search

Enter the **first few letters** of the Inventor's Last Name.
Additionally, enter the **first few letters** of the Inventor's First name.

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|---|---|---|
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5800 RANCHESTER STE 200
HOUSTON TX 77036

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JUN 10 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| Lin et al. | : | |
| Application No. 11/539,308 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. P10553 | : | |

This is a decision on the petition under 37 CFR 1.55(c), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Application No. 094135269, filed October 7, 2005. This decision is made in light of the executed application data sheet filed April 14, 2008.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application was filed on October 6, 2006, which is after November 29, 2000 and within 12 months of October 7, 2005 (the filing date of the foreign application to which benefit is now being claimed). On April 14, 2008, an executed application data sheet[1] was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 2851 for examination in due course and for consideration by the examiner of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1] Petitioner is reminded that any ADS filed after the initial application filing date must be executed pursuant to 37 CFR 1.33(b) and must be entitled supplemental ADS. In this instance, the requirement that the ADS be entitled supplemental ADS is being waived. See 1.76(c)(2).

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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 |
|---|---|---|---|---|---|---|
| 11/539,308 | 10/06/2006 | 2851 | 1000 | P10553 | 10 | 3 |

**CONFIRMATION NO. 3465**

**CORRECTED FILING RECEIPT**

57595
LAW OFFICES OF LAI AND ASSOCIATES, P.C.
5800 RANCHESTER STE 200
HOUSTON, TX 77036

*OC000000030057090*

Date Mailed: 05/20/2008

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)**

Wei Lin, Taipei Hsien, TAIWAN;
Ming-Li Lin, Taipei Hsien, TAIWAN;
Yuan-Yuan Lin, Taipei Hsien, TAIWAN;
Huei-Shiang Chien, Taipei Hsien, TAIWAN;

**Power of Attorney:**
Theodore Lapus--55359

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
TAIWAN 094135269 10/07/2005

**If Required, Foreign Filing License Granted:** 12/26/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/539,308**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Time Control System and Method for Projector

**Preliminary Class**

370

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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** | : Davide Louis Simone | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632425 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/539,330 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK SCHWARZE
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P.O. BOX 55727
BIRMINGHAM AL 35255

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Schwarze | : | |
| Application No. 11/539,344 | : | DECISION |
| Filed: 6 October, 2006 | : | |
| Attorney Docket No. 049916-00003 | : | |

This is a decision on the petition filed on 30 July, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been

scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

Petitioners' attentions always are directed to the guidance in the Commentary set forth at MPEP §711.03( c)(I)(A) and (B)[1]—*see*: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c ).

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[1] The guidance in the Commentary at MPEP §711.03( c) as to non-received Office actions and timely filed replies is as follows:

***A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action***

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

***B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed***

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to

Petitioner has not satisfied the showing requirements set forth at in the Commentary set forth at MPEP §711.03( c)(I) as to timely filing, all as set forth in the footnote below, with copies of supporting documents, for example, a date-stamped receipt card (*see*: MPEP §503), or Office FAX receipt acknowledgment, or EFS receipt acknowledgement on or before the date on which the reply in question was due.

## BACKGROUND

The record reflects as follows:

The Office mailed on 17 January, 2007, a Notice to File Missing Parts (oath/declaration, drawings, surcharge), with reply due absent extension of time on or before Monday 19 March, 2007, and Petitioner replied thereto on 19 March, 2007.

Thereafter, the Office mailed on 26 March, 2007, a Notice of Incomplete Reply (as to drawings), with the same previous deadline and option to request/purchase extensions of time, and Petitioner filed a blank two- (2-) page reply and request/fee for extension of time on 24 April, 2007.

The application went abandoned by operation of law after midnight 17 May, 2007.

Petitioner filed additional papers (*inter alia*, a preliminary amendment and two copies of one sheet of drawings (identified as sheet 1/7) on 1 November, 2007.

The Office mailed the Notice of Abandonment on 3 June, 2008.

On 30 July, 2008, Petitioner filed the instant petition, averred technical problems, and provided therewith, *inter alia*, that the all seven (7) sheets of drawings "were visible and accounted for **in the USPTO EFS system** prior to the final submittal." (Emphasis the original.) Petitioner also

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have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2'shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

***C. Treatment of Untimely Petition To Withdraw Holding of Abandonment***

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment. (Emphasis supplied.)

submitted copies of the seven sheets of drawings averred to have been submitted previously and other documents. Petitioner's Acknowledgement Receipt from:

- 24 April, 2007, clearly indicates that only two pages were received by the system (the Image File Wrapper (IFW) evidences that one was blank and one indicating an error)—not the seven sheets of drawings Petitioner avers to have submitted; and

- 1 November, 2007, clearly indicates that only two pages (Page Start 18, Page End 19) were received by the system—not the seven sheets of drawings Petitioner avers to have submitted.

Thus, at this writing the record is insufficient to support a grant of the instant petition.

Alternatively, Petitioner may file a petition to revive under the provisions of 37 C.F.R. §1.137(a) or (b).

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4] Delays in responding properly raise the question

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

[3] 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.

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner failed to make the showing required.

## CONCLUSION

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

## ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

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

[9] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of :
Schwarze :
Application No. 11/539,344 : DECISION
Filed: 6 October, 2006 :
Attorney Docket No. 049916-00003 :

This is a decision on the petition filed on 31 October, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment, alternatively, to revive the application under the provisions of 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

The petition under 37 C.F.R. §1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment or a Renewed Petition to Revive under 37 C.F.R. §1.137(a).

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c )(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there.

Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements.

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 requirements as to unavoidable delay**.

Petitioner's alternative is to file a petition under 37 C.F.R. §1.137(b), as discussed below.

## BACKGROUND

The record reflects as follows:

The Office mailed on 17 January, 2007, a Notice to File Missing Parts (oath/declaration, drawings, surcharge), with reply due absent extension of time on or before Monday 19 March, 2007, and Petitioner sought to rely thereto on 19 March, 2007.

Thereafter, the Office mailed on 26 March, 2007, a Notice of Incomplete Reply (as to drawings), with the same previous deadline and option to request/purchase extensions of time, and Petitioner filed a blank two- (2-) page reply and request/fee for extension of time on 24 April, 2007.

The application went abandoned by operation of law after midnight 17 May, 2007.

Petitioner filed additional papers (*inter alia*, a preliminary amendment and one sheet of drawings (identified as sheet 1/7) on 1 November, 2007.

The Office mailed the Notice of Abandonment on 3 June, 2008.

On 30 July, 2008, Petitioner filed a petition, averred technical problems, and provided therewith, *inter alia*, that the all seven (7) sheets of drawings "were visible and accounted for **in the USPTO EFS system** prior to the final submittal." (Emphasis the original.) Petitioner also submitted copies of the seven sheets of drawings averred to have been submitted previously and other documents.

Notably, Petitioner's Acknowledgement Receipt from:

- 24 April, 2007, clearly indicates that only two pages were received by the system (the Image File Wrapper (IFW) evidences that one was blank and one indicating an error)—not the seven sheets of drawings Petitioner avers to have submitted; and

- 1 November, 2007, clearly indicates that only two pages (Page Start 18, Page End 19) were received by the system—not the seven sheets of drawings Petitioner avers to have submitted.

Thus, the petition was dismissed on 29 September, 2008, for failure to satisfy the showing requirements set forth at in the Commentary set forth at MPEP §711.03( c)(I), and Petitioner was reminded that he might seek to revive the application under the provisions of 37 C.F.R. §1.137(a) or (b).

Petitioner responded on 31 October, 2008, with a petition under 37 C.F.R. §1.181, as well as a petition under 37 C.F.R. §1.137(a)—and Petitioner's response was marked with outrage that "the Decision *produces a result inconsistent with paper filing practices and procedures well established in the Patent Office*"—specifically Petitioner cites the provisions of MPEP §503 regarding the use of receipt cards. Moreover, Petitioner continues, "[Petitioner/] attorney for the applicant has already *sworn an oath* to have seen all 7 drawings properly uploaded into the EFS system, and this oath is corroborated by the paralegal who conducted the filing with the attorney." (Emphasis supplied.)

Petitioner's indignation is misplaced. The Office has suggested neither a change of policy regarding evidence of receipt of papers nor a misrepresentation of facts.

As to the former issue, Petitioner is reminded that an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. *See*, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007). Thus, when the electronic acknowledgement receipt indicates that less content has been received by the Office than one <u>believes</u> was sent to the Office, this is not unlike a clerk at the filing desk marking off a receipt card items not appearing in the paper or other content deposited via mail or courier with the Office.

As to the latter issue, Petitioner also is reminded that the Office did not (and does not) question what Petitioner <u>believes</u> to have occurred—rather, the Office simply points to the documentation of record, as submitted by Petitioner, in considering and deciding the petition(s) in the instant matter. With regard to the petition under 37 C.F.R. §1.181, the EFS Acknowledgement Receipts of 24 April, 2007, and 1 November, 2007—both of which were submitted by Petitioner—clearly evidence that seven (7) sheets of drawings <u>were not received by the Office</u> in the filings by Petitioner on those dates. In support of his petition in the alternative under 37 C.F.R. §1.137(a), Petitioner further contends that:

> ... the delay of the filing of the drawing pages *** were (sic) outside of the control of the Applicant. (In light of the facts fully set forth, Applicant had no way of knowing of the corruption of the uploaded drawing images in the EFS system and was not aware

> [footnote/reference omitted] of any error in the EFS system until the Notice of Abandonment was issued ***.

However, Petitioner stated that he received the EFS Acknowledgement Receipts, and, as discussed above, the receipts clearly evidence the limited items received by the Office on 24 April, 2007, and 1 November, 2007.

Thus, Petitioner's own documentation does not support a withdrawal of the holding of abandonment because it does not support a conclusion that the Office at any time acknowledged receipt of Petitioner's seven (7) sheets of drawings in reply to the 26 March, 2007, Notice to File Missing Parts (replacement drawings).

Further, Petitioner has not made a sufficient showing of unavoidable delay in failing to review the EFS Acknowledgement Receipt to observe that the seven (7) sheets of drawings were not successfully deposited with the Office in reply to the 26 March, 2007, Notice to File Missing Parts (replacement drawings).

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for

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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.

the reply now to be accepted on petition.[4] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

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. §1.181 is **dismissed**; and the petition under 37 C.F.R. §1.137(a) is **dismissed**.

## ALTERNATIVE VENUE

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

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

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

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

[6] 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.

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.

It also is noted that the statement of unintentional delay must be signed by the attorney under whose control the application went abandoned or by the authorized authority of the assignee—i.e., persons capable of making the statement of unintentional delay.

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, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

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

BUSH INTELLECTUAL
PROPERTY LAW GROUP, LLC
P.O. BOX 381146
BIRMINGHAM AL 35238

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Schwarze :
Application No. 11/539,344 : DECISION
Filed: 6 October, 2006 :
Attorney Docket No. 049916-00003 :

This is a decision on the petition filed on 16 December, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

## BACKGROUND

The record reflects as follows:

The Office mailed on 17 January, 2007, a Notice to File Missing Parts (oath/declaration, drawings, surcharge), with reply due absent extension of time on or before Monday 19 March, 2007, and Petitioner sought to rely thereto on 19 March, 2007.

Thereafter, the Office mailed on 26 March, 2007, a Notice of Incomplete Reply (as to drawings), with the same previous deadline and option to request/purchase extensions of time, and Petitioner filed a blank two- (2-) page reply and request/fee for extension of time on 24 April, 2007.

The application went abandoned by operation of law after midnight 17 May, 2007.

Petitioner filed additional papers (*inter alia*, a preliminary amendment and one sheet of drawings (identified as sheet 1/7) on 1 November, 2007.

The Office mailed the Notice of Abandonment on 3 June, 2008.

On 30 July, 2008, Petitioner filed a petition, averred technical problems, and provided therewith, *inter alia*, that the all seven (7) sheets of drawings "were visible and accounted for **in the USPTO EFS system** prior to the final submittal." (Emphasis the original.) Petitioner also submitted copies of the seven sheets of drawings averred to have been submitted previously and other documents.

Notably, Petitioner's Acknowledgement Receipt from:

- 24 April, 2007, clearly indicated that only two pages were received by the system (the Image File Wrapper (IFW) evidences that one was blank and one indicating an error)—not the seven sheets of drawings Petitioner averred to have submitted; and

- 1 November, 2007, clearly indicated that only two pages (Page Start 18, Page End 19) were received by the system—not the seven sheets of drawings Petitioner averred to have submitted.

Thus, the petition was dismissed on 29 September, 2008, for failure to satisfy the showing requirements set forth at in the Commentary set forth at MPEP §711.03( c)(I), and Petitioner was reminded that he might seek to revive the application under the provisions of 37 C.F.R. §1.137(a) or (b).

Petitioner responded on 31 October, 2008, with a petition under 37 C.F.R. §1.181, as well as a petition under 37 C.F.R. §1.137(a)—and Petitioner's response was marked with outrage that "the Decision *produces a result inconsistent with paper filing practices and procedures well established in the Patent Office*"—specifically Petitioner cites the provisions of MPEP §503 regarding the use of receipt cards. Moreover, Petitioner continues, "[Petitioner/] attorney for the applicant has already *sworn an oath* to have seen all 7 drawings properly uploaded into the EFS system, and this oath is corroborated by the paralegal who conducted the filing with the attorney." (Emphasis supplied.) Petitioner's indignation was misplaced. The Office suggested neither a change of policy regarding evidence of receipt of papers nor a misrepresentation of facts. As to the former issue, Petitioner was reminded that an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. *See*, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007). Thus, when the electronic acknowledgement receipt indicated that less content has been received by the Office than one <u>believes</u> was sent to the Office, this is not unlike a clerk at the filing desk marking off a receipt card items not appearing in the paper or other content deposited via mail or courier with the Office. As to the latter issue, Petitioner also was reminded that the Office did not (and does not) question what Petitioner <u>believed</u> to have occurred—rather, the Office simply pointed to the documentation of record, as submitted by Petitioner, in considering and deciding the petition(s)

in the matter. With regard to the petition under 37 C.F.R. §1.181, the EFS Acknowledgement Receipts of 24 April, 2007, and 1 November, 2007—both of which were submitted by Petitioner—clearly evidenced that seven (7) sheets of drawings were not received by the Office in the filings by Petitioner on those dates. In support of his petition in the alternative under 37 C.F.R. §1.137(a), Petitioner further contended that:

> ... the delay of the filing of the drawing pages *** were (sic) outside of the control of the Applicant. (In light of the facts fully set forth, Applicant had no way of knowing of the corruption of the uploaded drawing images in the EFS system and was not aware [footnote/reference omitted] of any error in the EFS system until the Notice of Abandonment was issued ***.

However, Petitioner stated that he received the EFS Acknowledgement Receipts. As discussed above, the receipts clearly evidenced the limited items received by the Office on 24 April, 2007, and 1 November, 2007. Thus, Petitioner's own documentation did not support a withdrawal of the holding of abandonment because it does not support a conclusion that the Office at any time acknowledged receipt of Petitioner's seven (7) sheets of drawings in reply to the 26 March, 2007, Notice to File Missing Parts (replacement drawings). Further, Petitioner did not make a sufficient showing of unavoidable delay in failing to review the EFS Acknowledgement Receipt to observe that the seven (7) sheets of drawings were not successfully deposited with the Office in reply to the 26 March, 2007, Notice to File Missing Parts (replacement drawings). The petition was dismissed on 1 December, 2008

On 10 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, a reply in the form of drawings (oath/declaration and surcharge previously submitted), and made the statement of unintentional delay.

On 5 January, 2009, a Revocation/Power of Attorney) was submitted and apparently was entered.

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]

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

## STATUTES, REGULATIONS 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 the Office of Patent Application Processing (OPAP) 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 OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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[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.

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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**RANKIN, HILL & CLARK LLP**
**38210 GLENN AVENUE**
**WILLOUGHBY OH 44094-7808**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Michael B. Puczkowski | : | TO WITHDRAW |
| Application No. 11/539,351 | : | FROM RECORD |
| Filed: October 6, 2006 | : | |
| Attorney Docket No. PZK-16805 | : | |

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**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by David E. Spaw on behalf of all attorneys of record however the request does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with same Customer Number.

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 are no outstanding Office actions that require 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**38210 GLENN AVENUE**
**WILLOUGHBY OH 44094-7808**

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| | | |
|---|---|---|
| In re Application of | : | |
| Michael B. Puczkowski | : | DECISION ON PETITION |
| Application No. 11/539,351 | : | TO WITHDRAW |
| Filed: October 6, 2006 | : | FROM RECORD |
| Attorney Docket PZK-16805 | : | |

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 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 David E. Spaw, on behalf of all practitioners of record who are associated with Customer Number 40854.

All attorneys/agents associated with the Customer Number 40854 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 outstanding Office actions that require 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: MICHAEL B. PUCZKOWSKI
2312 FAIRDALE AVENUE
CLEVELAND, OH 44109

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 |
|---|---|---|---|
| 11/539,351 | 10/06/2006 | Michael B. Puczkowski | |

**CONFIRMATION NO. 3537**

**POWER OF ATTORNEY NOTICE**

40854
RANKIN, HILL & CLARK LLP
38210 Glenn Avenue
WILLOUGHBY, OH 44094-7808

*OC000000039588236*

Date Mailed: 01/11/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2009.

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

/atkelley/

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

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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masato Okuda | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653487 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,356 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**OFFICE OF PETITIONS**

**Maynard Cooper & Gale, PC**
**1901 Sixth Avenue North**
**2400 Regions/Harbert Plaza**
**Birmingham, AL 35203-2618**

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Schwarze | : | |
| Application No. 11/539,363 | : | DECISION ON PETITION |
| Filed: October 6, 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 July 31, 2008.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Russell C. Gachè and all attorneys/agents of record have been revoked by the assignee of the patent application on January 5, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise 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: Bush, Intellectual Property Law Group, LLC
P.O. Box 381146
Birmingham, AL 35238

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**Maynard Cooper & Gale, PC**
**1901 Sixth Avenue North**
**2400 Regions/Harbert Plaza**
**Birmingham, AL 35203-2618**

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APR 16 2009

OFFICE OF PETITIONS

In re Application of

Mark Schwarze

Application No. 11/539,368
Filed: October 6, 2006
Attorney Docket No.

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 31, 2008.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Russell C. Gache and all attorneys/agents of record have been revoked by the assignee of the patent application on January 5, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bush Intellectual Property Law Group, LLC
P.O. Box 381146
Birmingham, AL 35238

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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**Hahn Loeser & Parks, LLP**
**One GOJO Plaza**
**Suite 300**
**Akron, OH 44311-1076**

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MAR 17 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Rajendra Kumar | : | |
| Application No. 11/539,373 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 117210.00072 | : | FROM RECORD |

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 13, 2007.

The request is **APPROVED**.

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

The request was signed by Scott M. Oldham 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 Rajendra Kumar at the address indicated below.

There is an outstanding Office action mailed October 18, 2007 that requires a reply from the applicant.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Khyber Technologies Corporation**
**2841 Riviera Drive**
**Akron, OH 44333**
**Attn : Rajendra Kumar**

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 |
|---|---|---|---|
| 11/539,373 | 10/06/2006 | Rajendra Kumar | 117210.00072 |

**CONFIRMATION NO. 3569**

**POWER OF ATTORNEY NOTICE**

*OC000000028835449*

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Date Mailed: 03/13/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2007.

- 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**MAYNARD COOPER & GALE, PC**
**1901 SIXTH AVENUE NORTH**
**2400 REGIONS/HARBERT PLAZA**
**BIRMINGHAM, AL 35203-2618**

**COPY MAILED**

MAR 2 4 2009

**OFFICE OF PETITIONS**

In re Application of
**SCHWARZE,** Mark
Application No. 11/539,374
Filed: October 06, 2006
Attorney Docket No. **049916-00008**

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 31, 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 MAYNARD COOPER & GALE, PC has been revoked by the assignee of the patent application on January 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC**
**P.O. BOX 381146**
**BIRMINGHAM AL 35238**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Aug-07

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

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AUG 17 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jordan, Bublitz, and Zick | : | DECISION ACCORDING STATUS |
| Application Number: 11/539379 | : | UNDER 37 CFR 1.47(a) |
| Filing Date: 10/06/2006 | : | |
| Attorney Docket Number: 066042-9642-01 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed on 18 June, 2007.

Petitioners have shown that the non-signing inventor, Kenneth Jordan, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of registered patent practitioner Paul M. McGinley, that a copy of the above-identified application was sent to the non-signing inventor at his residence. The non-signing inventor, however, failed to sign and return the declaration naming him as a joint inventor along with Scott Bublitz and Jonathan Zick.

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

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

The application will be referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Aug-07

Kenneth Jordan
N28 W29870 Oakwood Grove Road
Pewaukee WI 53072

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of
Jordan et al.
Application No. 11/539,379
Filed: 6 October, 2006
For: REPLACEABLE TIP FOR A BIT OR AUGER BIT

Dear Mr. Jordan:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/539,412 | 10/06/2006 | Kyong-Tae PARK | YOM-0371 | 3634 |

7590 05/14/2009
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|
| SHALWALA, BIPIN H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/14/2009 | 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: 05/13/2009 NFARMER
10/10/2006 INTEFSW 00000209 061130 11539412
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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FEB 15 2007

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

| | |
|---|---|
| In re Application of | : |
| Jan W. Gooch et al | : |
| Serial No.: 11/539,422 | : PETITION TO MAKE SPECIAL |
| Filed: October 6, 2006 | : |
| Attorney Docket No.: 22787-0080 | : |

This is in response to the petition filed October 6, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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HARNESS, DICKEY & PIERCE P.L.C
P.O. BOX 8910
RESTON, VA 20195

| | | |
|---|---|---|
| In re Application of | : | |
| DANIEL PUZIO ET AL. | : | |
| Application No. 11/539,455 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 0275L-001138/US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 5, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents listed in the above noted request has been revoked by the Assignee of the patent application on March 30, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: CAPITOL CITY TECHLAW, PLLC
P.O. BOX 1210
VIENNA, VA 22183

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 22 2009

OFFICE OF PETITIONS

Applicant: Rondeau et al.
Appl. No.: 11/539,459
Filing Date: October 6, 2006
Title: Composition For Dyeing Keratinous Fibres With A Cationic Direct Dye And A Silicone
Attorney Docket No.: 05725.0579-02000
Pub. No.: US 2007/0261178 A1
Pub. Date: November 15, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 14, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in the specification.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

With respect to paragraph [0011] of the published application, omission of (III'), (IV) is not material, since paragraph [0010] states that the formulae (I) to (IV) are included. With respect to page 21 of the published application, omission of "What is claimed is" is not material, since it is inferred from the context.

Although the publication contains the material error of omitting a formula on page 29, column 2, the application has now published as U.S. Patent 7,507,260. Since the patent has issued, the above issue is moot, and the request is therefore dismissed.

---

[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).

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mercedes P. Gomez | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7589377 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,482 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**CHRIS A. CASEIRO**
**VERRILL DANA, LLP**
**ONE PORTLAND SQUARE**
**PORTLAND ME 04112-0586**

**COPY MAILED**

JAN 26 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **THOMAS**, et al. | : | |
| Application No. 11/539,484 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. THS-001 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the statement of inventor Loretta A. Thomas, attesting to her age. Accordingly, the above-identified application has been accorded "special" status.

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

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 3643 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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**CHRIS A. CASEIRO**
**VERRILL DANA, LLP**
**ONE PORTLAND SQUARE**
**PORTLAND, ME 04112-0586**

**MAILED**

NOV 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Thomas et al. | : | |
| Application No. 11/539,484 | : | ON PETITION |
| Filed: October 6, 2006 | : | |
| Attorney Docket No. THS-001 | : | |

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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 10, 2008. A Notice of Abandonment was mailed February 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114, (2) the petition fee of $810, and (3) an a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**NEUSTEL LAW OFFICES, LTD.**
**2534 SOUTH UNIVERSITY DRIVE,**
**SUITE 4**
**FARGO, ND 58103**

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NOV 1 3 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| Michael D. HOWERTON | : | |
| Application No. 11/539,488 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. HOWE-005 | : | FROM RECORD |
| | : | |

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 23, 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 Michael S. Neustel 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 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: MICHAEL D. HOWERTON
109 IDA WAY,
ETNA, CA 96027

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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** | : Charles D. Royalty | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581002 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,512 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ricky A. Sisk | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654735 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,516 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUN 22 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Rajinder Singh et al | : | |
| Application No. 11/539,520 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 064311-1751 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **APPROVED**.

The request was signed by Gerald F. Swiss on behalf of all attorneys of record who are associated with customer No. 69588.

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

All future correspondence will be directed to assignee Rigel Pharmaceuticals, Inc at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

Mail Date: 05/24/2010

| | | |
|---|---|---|
| **Applicant** | : Jeffrey Paul Solum | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664211 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/539,524 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |

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

The patent term adjustment has been determined to be **732** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

| | | |
|---|---|---|
| In re Application of | : | |
| **BLAIR,** Charles S. | : | |
| Application No. 11/539,526 | : | DECISION ON PETITION |
| Filed: October 06, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **CBLR-001CIP** | : | FROM RECORD |

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.

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 Karl Bozicevic on behalf of all attorneys of record who are associated with customer No. 24353. 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: **CHARLES S. BLAIR**
**360 ENCINA AVENUE**
**REDWOOD CITY, CALIFORNIA 94061**

cc: **DOUGLAS C. LIMBACH**
**THE SHAY LAW GROUP**
**2755 CAMPUS DRIVE, SUITE 210**
**SAN MATEO, CA 94403**

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,526 | 10/06/2006 | Charles S. BLAIR | CBLR-001CIP |

**CONFIRMATION NO. 3818**

*OC000000025553193*

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 08/24/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2007.

- 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. Eden

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

FORMER ATTORNEY/AGENT COPY

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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FEB 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Charles S. Blair, et al. | : | |
| Application No. 11/539,526 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 10317-700.501 | : | FROM RECORD |
| | : | |

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 request was signed by Douglas C. Limbach on behalf of all attorneys of record who are associated with customer No. 66854. All attorneys/agents associated with the Customer Number 66854 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 7, 2008 that requires a reply from the applicant.

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: CHARLES S. BLAIR
360 ENCINA AVENUE
REDWOOD CITY, CA 94061

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www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,526 | 10/06/2006 | Charles S. BLAIR | 10317-700.501 |

**CONFIRMATION NO. 3818**

**POWER OF ATTORNEY NOTICE**

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

*OC000000034491146*

Date Mailed: 02/10/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/22/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Takayuki Kubo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7574402 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,529 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **56** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Qinghua Li | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623603 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,535 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**HELLER EHRMAN LLP**
**275 MIDDLEFIELD ROAD**
**MENLO PARK, CA 94025-3506**

| | | |
|---|---|---|
| In re Application of | : | |
| Dominique M. Freeman et al | : | |
| Application No. 11/539,542 | : | ON PETITION |
| Filed: October 6, 2006 | : | |
| Attorney Docket No. 38187-2857 | : | |

This is a decision on the petition under 37 CFR 1.182, filed March 6, 2007, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

**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 |
|---|---|---|---|---|---|---|
| 11/539,542 | 10/06/2006 | 3731 | 2625 | 38187-2857 | 36 | 21 |

**CONFIRMATION NO. 3844**

**CORRECTED FILING RECEIPT**

*OC000000025024227*

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Date Mailed: 07/26/2007

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)**

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvalle, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number **25213**.

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/335,099 12/31/2002 PAT 7,244,265
which is a CIP of 10/127,395 04/19/2002 PAT 7,025,774

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/06/2007

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/539,542**

**Projected Publication Date:** To Be Determined - pending completion of Corrected Papers

**Non-Publication Request:** No

**Early Publication Request:** No

** SMALL ENTITY **

**Title**

Method and apparatus for penetrating tissue

**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).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/539,545 | 10/06/2006 | Denis Y. Yerlikaya | TYCK 0491 (H-KN-00491) | 3848 |

54964 7590 11/21/2008
TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

| EXAMINER |
|---|
| ADAMS, BRET W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2862 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/21/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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TYCO HEALTHCARE – EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

| | | |
|---|---|---|
| In re Application of: | : | |
| Denis Y. Yerlikaya et al. | : | *SUA SPONTE* |
| Serial No.: 11/539545 | : | DECISION WITHDRAWING HOLDING OF |
| Filed: October 6, 2006 | : | ABANDONMENT |
| Attorney Docket No.: TYCK 0491 (H-KN-00491) | : | |

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for the failure to file a response to the Office action mailed on April 21, 2008. A Notice of Abandonment was mailed on October 30, 2008.

A review of the written record shows that the a request for a three (3) month extension of time and an Amendment/Request for Reconsideration After Non-Final Rejection was filed on October 14, 2008.

In view of the above, it appears that the application was prematurely abandoned.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status and forwarded to the Examiner for further examination.

Inquiries related to this decision should be directed to Patrick J. Assouad at (571) 272-2210.

John W. Cabeca, Director (acting)
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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**AT & T Legal Department – WK**
**Attn: Patent Docketing**
**Room 2A-207**
**One AT & T Way**
**Bedminster, NJ 07921**

MAILED

JUL 21 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Samuel Zellner | : | |
| Application No. 11/539,560 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 20009.0282US01 (BS06-0109 | : | FROM RECORD |

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 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by 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 |
|---|---|---|---|
| 11/539,560 | 10/06/2006 | Samuel Zellner | 20009.0282US01 (BS06-0109 |

**CONFIRMATION NO. 3878**

**POWER OF ATTORNEY NOTICE**

*OC000000037008814*

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 07/21/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JAN 17 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eugene P. Pittz | : | |
| Application No. 11/539,588 | : | DECISION ON PETITION |
| Filed: October 6, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 4493P3140 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant, Eugene P. Pittz, proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**LAW OFFICE OF PHILIP A. STEINER**
**1212 MARSH STREET**
**SUITE 3**
**SAN LUIS OBISPO, CA 93401**

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NOV 15 2007

**OFFICE OF PETITIONS**

In re Application of :
Louis Rosenberg :
Application No. 11/539,598 : DECISION ON PETITION
Filed: October 6, 2006 : TO WITHDRAW
Attorney Docket No. OL09302006 : FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 4, 2007 and October 5, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Philip A. Steiner and all attorneys/agents associated with customer number 31105 has been revoked by the applicant of the patent application on October 31, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sinsheimer, Juhnke, Lebens &
McIvor, LLp
1010 Peach Street
P.O. Box 31
San Luis Obispo, CA 93406

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,598 | 10/06/2006 | Louis B. Rosenberg | OL09302006 |

**CONFIRMATION NO. 1425**

**POWER OF ATTORNEY NOTICE**

31105
LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

*OC000000026645711*

Date Mailed: 11/13/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/zretta/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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JUL 23 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Woods et al. | : | |
| Application No. 11/539611 | : | ON PETITION |
| Filed: 10/06/2006 | : | |
| Attorney Docket No. LAM2P566 | : | |

This is a decision on the petition, filed on May 22, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on May 22, 2008. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

**By hand:** Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

**By Fax:** (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Woods et al. | : | |
| Application No. 11/539611 | : | DECISION ON PETITION |
| Filed: 10/06/2006 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. LAM2P566 | : | |

This is a decision on the renewed petition, filed on August 20, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 5, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign which sets forth the projected publication date of October 30, 2008, was mailed on July 22, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

This application is being referred to Technology Center Art Unit 1795 for examination in due course.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ARTHUR L LESSLER
540 OLD BRIDGE TURNPIKE
SOUTH RIVER NJ 08882

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FEB 0 9 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rupp, et al. | : | DECISION ACCORDING STATUS |
| Application No. 11/539,628 | : | UNDER 37 CFR 1.47(a) |
| Filed: October 7, 2006 | : | |
| Attorney Docket No. SSW-114A | : | |

This is in response to the petition under 37 CFR 1.47(a), filed October 7, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventors Rupp and Klimash have refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to Group Art Unit 3723 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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GLENN A RUPP
5 TANGLEWOOD DR
HIGHLAND LAKES NJ 07422-1006

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FEB 0 9 2007

**OFFICE OF PETITIONS**

In re Application of :
Glenn A. Rupp, Matthew C. Klimash, :
Michael A. Passero Jr., Shreedhar Kale :
Application No. 11/539,628 :
Filed: October 7, 2006 : LETTER
Title: Tool for Removal of Socket Head :
Screws Having Stripped Heads :

Dear Mr. Rupp:

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

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MATTHEW C KLIMASH
18 BIRCHWOOD DR
PISCATAWAY NJ 08854

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of :
Glenn A. Rupp, Matthew C. Klimash, :
Michael A. Passero Jr., Shreedhar Kale :
Application No. 11/539,628 :
Filed: October 7, 2006 :
Title: Tool for Removal of Socket Head :
Screws Having Stripped Heads :

LETTER

Dear Mr. Klimash:

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

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ARTHUR L. LESSLER
540 OLD BRIDGE TURNPIKE
SOUTH RIVER, NJ 08882

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OFFICE OF PETITIONS

In re Application of Rupp et al. :
Application No. 11/539,628 :
Filing Date: October 7, 2006 :
Attorney Docket No. SSW-114A :

Decision on Petition

This is a decision on the letter filed March 12, 2009, which is being treated as a petition under 37 CFR 1.181 requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Final Office action mailed April 14, 2008, and the Advisory Action of November 26, 2008, are hereby vacated.

Facts

The Office mailed a final Office action on November 15, 2007.

Petitioner filed a Request for Continued Examination and amendment on February 6, 2008.

The Office mailed a final Office action on April 14, 2008. The final Office action appears to be identical to the prior final Office action except for the signature block.

The April 14, 2008 final Office action does not address the amendment filed February 6, 2008. Instead, the final Office action addresses the amendment filed September 6, 2007. The first page of the final Office actions indicates the Office action is being mailed in response to a September 6, 2007 communication. The third page of the final Office action states, "Applicants arguments filed 9/6/07 have been fully considered but they are not persuasive."

On April 17, 2008, *only three days* after the Office mailed the second final Office action, petitioner filed a paper stating,

> The Office action dated April 14, 2008 was issued in error. That Action is a duplicate of the Office action issued November 15, 2007.... The current Office action does not respond to Applicant's Request for Continued Examination and Amendment filed February 6, 2008, the Acknowledgment Receipt for which is included therein. For these

reasons Applicant requests that the Action issued April 14, 2008 be withdrawn and the Examiner act on the papers filed February 6, 2008.

The Office mailed an Advisory Action on November 26, 2008. The Advisory Action indicates the April 17, 2008 reply fails to place the application in condition for allowance. The Advisory Action states the proposed amendment raises new issues and states, "The sharp transitions between the facets of the facets of the tapered tip would require further search and consideration." Since the April 17, 2008 reply was not accompanied by any amendment, the language in the Advisory action appears to allege the content of the amendment filed February 6, 2008, raises new issues.

The Office mailed a Notice of Abandonment on December 15, 2008.

The instant petition was filed March 12, 2009.

## Discussion

In view of the specific facts in this case, the Final Office action mailed April 14, 2008, and the Advisory Action of November 26, 2008, are hereby vacated.

The holding of abandonment is withdrawn.

Technology Center 3723 will be informed of the instant decision and the amendment filed February 6, 2008, will be entered and considered by the examiner in due course.[1]

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

[1] 37 CFR 1.114(d) states, with emphasis added, "If an applicant timely files [a RCE and] a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission *will be entered and considered*."

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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Qi Luo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7629197 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,630 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/18/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **87** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LAW OFFICE OF RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY CA 93062

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**OFFICE OF PETITIONS**

In re Application of
H. Scott Wilson
Application No. 11/539,631
Filed: October 7, 2006
Attorney Docket No. P06-WATSN-0274

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a 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 back to the Office of Initial Patent Examination for further processing.

April M. Wise
Petitions Examiner
Office of Petitions

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Orshansky | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7665047 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,671 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/09/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of
H. Eugene Bassett, PE

Application No. 11539672

Filed: October 9,2006

Attorney Docket No.

: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 05-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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ALEXANDRIA, VA 22313-1450
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SYSTEM DYNAMICS
4126 HENLEY COURT
SUGAR LAND TX 77479

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| H. Eugene Bassett et al. | : | |
| Application No. 11/539,672 | : | DECISION ON PETITION |
| Filed: October 9, 2006 | : | PURSUANT TO |
| Title: SEMISPHERICAL VALVE FOR | : | 37 C.F.R. § 1.137(a) |
| RECIPROCATING COMPRESSOR AND | : | |
| PUMPS | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, which was filed on May 19, 2008. This is also a decision on the petition filed June 26, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

This application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 31, 2007, 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 November 1, 2007. A notice of abandonment was mailed on May 13, 2008.

**The petition pursuant to 37 C.F.R. § 1.137(a)**:

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, 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 fee that is associated with the filing of a petition pursuant to this section of the C.F.R. As such, Petitioner has met requirement (2) of Rule 1.137(a). The fourth requirement is not applicable, as no terminal disclaimer is 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 notice. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[1]. In order for the application to be revived, petitioner must submit a reply that satisfies 37 C.F.R. § 1.137(a)(1) (i.e., an acceptable oath or declaration).

With this petition, Petitioner has included an executed declaration. However, it is noted that this declaration is appropriate for applications in which an Application Data Sheet (ADS) has been filed. The electronic file has been reviewed, and it does not appear to contain an ADS. As such, **the declaration cannot be accepted**.

In other words, Petitioner submitted form PTO/SB/**01A**, which is appropriate only in situations where an ADS has been filed. On renewed petition, Petitioner should submit either an ADS or form PTO/SB/**01**.

Petitioner will note that 37 C.F.R. § 1.63(c) sets forth, *in toto*:

> **Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:**

1 See M.P.E.P. § 711.03(c).

> (1) **The 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**; and
> (2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing.
>
> Emphasis added.

Regarding the third requirement of Rule 1.137(a), Petitioner has not established that the entire period of delay was unavoidable. Petitioner has indicated that he is unsure as to why this application went abandoned. On renewed petition, Petitioner must explain why a timely response to the notice of August 31, 2007 was not submitted.

**The petition pursuant to 37 C.F.R. § 1.137(b)**:

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.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. § 1.17(m) as being $1540 for a large entity and $770

for a small entity. There is no record of said fee actually having been received. Therefore, requirement number (2) of Rule 1.137(b) has not been met.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B), which sets forth, *in toto*:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived** (emphasis added).
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.
>
> The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing 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.

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) and/or (b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[6]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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COMMISSIONER FOR PATENTS
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Paper No.

SYSTEM DYNAMICS
4126 HENLEY COURT
SUGAR LAND TX 77479

**COPY MAILED**

AUG 04 2008

| | | |
|---|---|---|
| In re Application of | : | |
| H. Eugene Bassett et al. | : | |
| Application No. 11/539,672 | : | DECISION ON RENEWED |
| Filed: October 9, 2006 | : | PETITION PURSUANT TO |
| Title: SEMISPHERICAL VALVE FOR | : | 37 C.F.R. § 1.137(a) |
| RECIPROCATING COMPRESSOR AND | : | |
| PUMPS | : | |

This is a decision on the renewed pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application, which was filed on July 18, 2008.

The renewed petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

This application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 31, 2007, 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 November 1, 2007. A notice of abandonment was mailed on May 13, 2008.

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, 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.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 26, 2008, and was dismissed via the mailing of a decision on July 14, 2008. The decision indicated that Petitioner had met requirement (2) of Rule 1.137(a), and that the fourth requirement is not applicable, as no terminal disclaimer is required.

With this renewed petition, Petitioner has included an executed declaration. It is noted that both the petition fee and the fee that is associated with the late submission of a declaration were preveniently submitted. It follows that the first and second requirements of Rule 1.137(a) have been satisfied.

Regarding the third requirement of Rule 1.137(a), Petitioner has not established that the entire period of delay was unavoidable. Petitioner has indicated that he was unaware of unspecified "implications." **On second renewed petition, Petitioner must explain why a timely response to the notice of August 31, 2007 was not submitted.**

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.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[5]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
H. Eugene Bassett et al. :
Application No. 11/539,672 :
Filed: October 9, 2006 :
Title: SEMISPHERICAL VALVE FOR :
RECIPROCATING COMPRESSOR AND :
PUMPS :

DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(a)

This is a decision on the second renewed pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application, which was filed on August 7, 2008.

This second renewed petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

BACKGROUND AND PROCEDURAL HISTORY

This application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 31, 2007, 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 November 1, 2007. A notice of abandonment was mailed on May 13, 2008.

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, 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.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 26, 2008, and was dismissed via the mailing of a decision on July 14, 2008. The decision indicated that Petitioner had met requirement (2) of Rule 1.137(a), and that the fourth requirement is not applicable, as no terminal disclaimer is required.

A renewed pursuant to 37 C.F.R. § 1.137(a) was filed on July 18, 2008, and was dismissed via the mailing of a decision on August 4, 2008. The decision indicated that the petition fee and the fee that is associated with the late submission of a declaration had been preveniently submitted, that the first and second requirements of Rule 1.137(a) had been satisfied, and that it was not clear why a timely response to the notice of August 31, 2007 was not submitted.

## RELEVANT RULE

37 C.F.R. § 10.18(a) sets forth, *in toto*:

> 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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

## ANALYSIS

This petition has been reviewed by the undersigned, and it is noted that **it has not been executed**. Consequently, this petition cannot be entered, pursuant to Rule 10.18(a), reproduced above.[1]

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1 See also 37 C.F.R. § 1.4 and MPEP § 502.02.

## 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)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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SEP 15 2008
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| H. Eugene Bassett et al. | : | |
| Application No. 11/539,672 | : | DECISION ON THIRD |
| Filed: October 9, 2006 | : | RENEWED PETITION PURSUANT TO |
| Title: SEMISPHERICAL VALVE FOR | : | 37 C.F.R. § 1.137(a) |
| RECIPROCATING COMPRESSOR AND | : | |
| PUMPS | : | |

This is a decision on the third renewed pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application, which was filed on August 27, 2008.

This third renewed petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED**.

## BACKGROUND AND PROCEDURAL HISTORY

On December 26, 2006, the Office mailed a Notice of Missing Parts (first notice), which was withdrawn via the mailing of a "Withdrawal of Previously Sent Notice" (second notice) on August 31, 2007.

This application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (third notice), mailed August 31, 2007, 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 November 1, 2007. A notice of abandonment was mailed on May 13, 2008.

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, 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.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 26, 2008, and was dismissed via the mailing of a decision on July 14, 2008. The decision indicated that Petitioner had met requirement (2) of Rule 1.137(a), and that the fourth requirement is not applicable, as no terminal disclaimer is required.

A renewed pursuant to 37 C.F.R. § 1.137(a) was filed on July 18, 2008, and was dismissed via the mailing of a decision on August 4, 2008. The decision indicated that the petition fee and the fee that is associated with the late submission of a declaration had been preveniently submitted, that the first and second requirements of Rule 1.137(a) had been satisfied, and that it was not clear why a timely response to the notice of August 31, 2007 was not submitted.

A second renewed pursuant to 37 C.F.R. § 1.137(a) was filed on August 7, 2008, and was dismissed via the mailing of a decision on August 25, 2008, as the petition had not been executed.

**To date, Petitioner has met the first and second requirements of Rule 1.137(a). The fourth requirement is not applicable.**

## THE APPLICABLE STANDARD

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference[1].
>
> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts clearly demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked any basis in reason or common sense[2].
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law[3].'
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency[4].

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

Nonawareness of a PTO rule will not constitute unavoidable delay[5]

The burden of showing the cause of the delay is on the person seeking to revive the application[6].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8]

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[9].

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** (emphasis included). 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[10].

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5 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.

6 Id.
7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

8 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

9 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
10 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[11]."

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[12]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[13]."

## RELEVANT RULES

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.

## ANALYSIS

With this petition, Petitioner has asserted that he received a mailing from the Office on August 31, 2007. He noted the inclusion of the second notice, but inadvertently overlooked the third notice.

This does not rise to the standard that is required in order to establish that the entire period of delay was unavoidable. As set forth above, the word "unavoidable" requires "no more or

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11 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
12 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
13 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." A reasonably prudent and careful man, acting in relation to his most important business, would have carefully inspected the mailing of August 31, 2007, and would have noted the inclusion of the third notice. It is likely that had Petitioner noted the third notice, a timely response to the same would have been filed.

## 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

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. § 1.137(b). Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Petitioner will note that a third option is to concurrently file both a fourth 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 Petitioner.

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 2, 2008). Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent. More information can be obtained here:

Current fee schedule:
http://www.uspto.gov/web/offices/ac/qs/ope/fee2007september30_2008august01.htm

Fees as of October 2, 2008:
http://www.uspto.gov/web/offices/ac/qs/ope/fee2008october02.htm

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[14], hand-delivery[15], or facsimile[16]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[17].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[18].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
16 (571) 273-8300- please note this is a central facsimile number.
17 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
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 any further action(s) of Petitioner.

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Paper No.

SYSTEM DYNAMICS
4126 HENLEY COURT
SUGAR LAND TX 77479

**COPY MAILED**

MAR 30 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| H. Eugene Bassett et al. | : | |
| Application No. 11/539,672 | : | DECISION ON PETITION |
| Filed: October 9, 2006 | : | PURSUANT TO |
| Title: SEMISPHERICAL VALVE FOR | : | 37 C.F.R. § 1.137(b) |
| RECIPROCATING COMPRESSOR AND | : | |
| PUMPS | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, which was filed on September 20, 2008.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

BACKGROUND

On December 26, 2006, the Office mailed a Notice of Missing Parts (first notice), which was withdrawn via the mailing of a "Withdrawal of Previously Sent Notice" (second notice) on August 31, 2007.

This application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (third notice), mailed August 31, 2007, 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 November 1, 2007. A notice of abandonment was mailed on May 13, 2008.

## PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 26, 2008, and was dismissed via the mailing of a decision on July 14, 2008. The decision indicated that Petitioner had met requirement (2) of Rule 1.137(a), and that the fourth requirement is not applicable, as no terminal disclaimer is required.

A renewed pursuant to 37 C.F.R. § 1.137(a) was filed on July 18, 2008, and was dismissed via the mailing of a decision on August 4, 2008. The decision indicated that the petition fee and the fee that is associated with the late submission of a declaration had been preveniently submitted, that the first and second requirements of Rule 1.137(a) had been satisfied, and that it was not clear why a timely response to the notice of August 31, 2007 was not submitted.

A second renewed pursuant to 37 C.F.R. § 1.137(a) was filed on August 7, 2008, and was dismissed via the mailing of a decision on August 25, 2008, as the petition had not been executed.

A third renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on August 27, 2008, and was dismissed via the mailing of a decision on September 15, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(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 included the petition fee and the proper statement of unintentional delay.

An executed declaration was received on July 17, 2008, and the fee associated with the late submission of the same was received on January 12, 2007.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

## CONCLUSION

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival of this application has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Lyle Gene Roybal | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652572 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,678 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/09/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **384** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Steven F. Kalik | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7579942 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,686 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/09/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**Arent Fox LLP**
**555 West Fifth Street**
**48th Floor**
**Los Angeles, CA 90013**

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OCT 17 2008

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Gil-Arvizu | : | |
| Application No. 11/539,750 | : | DECISION ON PETITION |
| Filed: October 09, 2006 | : | |
| Attorney Docket No. 030288-00002 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed February 6, 2008. The proposed reply required for consideration of a petition to revive after a final Office action 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)(b). An amendment was filed August 6, 2008 with a three month extension of time under 37 CFR 1.136. Then, on August 7, 2008, after the period for response to the final office action expired, a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed concurrently with the present petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 405, and the submission required by 37 CFR 1.114, (2) the petition fee of $ 770, and (3) a proper statement of unintentional delay. Accordingly, the finality of the Office action mailed February 06, 2008 is withdrawn in accordance with 37 CFR 1.114(d).

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 3782 for appropriate action by the Examiner in the normal course of business on the reply received

Cliff Bottorff

for David Bucci
Petitions Examiner
Office of Petitions

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HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Remigijus Gaska | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619238 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,754 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/09/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **419** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY 19 2008

**Hahn, Loeser & Parks, LLP**
**One GOJO Plaza**
**Suite 300**
**Akron, OH 44311-1076**

| | | |
|---|---|---|
| In re Application of | : | |
| Steven Maupin | : | |
| Application No. 11/539,755 | : | DECISION ON PETITION |
| Filed: October 9, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 201286.00003 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark A. Watkins on behalf of all attorneys/agents associated with customer number 21324. All attorneys/agents associated with the customer number 21324 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the applicant. A courtesy copy of this decision will be mailed to the address noted on the request. If you would like to receive future correspondence then the proper power of attorney documents must be submitted.

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: Steve Maupin
440 Warwick Street
Akron, OH 44305

cc: Mr. Joe Lechiara
2181 Wadsworth Road, Suite 202
Norton, OH 44203

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/539,755 | 10/09/2006 | Steven Maupin | 201286.00003 |

**CONFIRMATION NO. 4262**

**POWER OF ATTORNEY NOTICE**

*OC000000030011637*

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Date Mailed: 05/19/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**MR. S. H. DWORETSKY**
**AT&T CORP.**
**ROOM 2A-207**
**ONE AT&T WAY**
**BEDMINSTER NJ 07921**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bernard GLANCE | : | |
| Application No. 11/539,772 | : | DECISION ON PETITION |
| Filed: October 09, 2006 | : | |
| Attorney Docket No. ATT/112352CON1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 04, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 04, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 05, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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LAW OFFICES OF LAI AND ASSOCIATES, P.C.
5800 RANCHESTER STE 200
HOUSTON TX 77036

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DEC 12 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Yang | : | |
| Application No. 11/539,793 | : | DECISION ON PETITION |
| Filed: October 9, 2006 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. P10552 | : | |

This is a decision on the petition under 37 CFR 1.55(c), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Taiwan Application No. 095212504, filed July 17, 2006.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on October 9, 2006, which is after November 29, 2000 and within 12 months of July 17, 2006 (the filing date of the foreign application to which benefit is now being claimed). On April 14, 2008, an application data sheet was filed for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 3653 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/539,793 | 10/09/2006 | 3653 | 425 | P10552 | 5 | 1 |

**CONFIRMATION NO. 4327**

**CORRECTED FILING RECEIPT**

57595
LAW OFFICES OF LAI AND ASSOCIATES, P.C.
5800 RANCHESTER STE 200
HOUSTON, TX 77036

*OC000000033489328*

Date Mailed: 12/08/2008

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)**

Wen-Fu Yang, Taipei, TAIWAN;

**Power of Attorney:**
Theodore Lapus--55359

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
TAIWAN 095212504 07/17/2006

**If Required, Foreign Filing License Granted:** 01/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/539,793**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Bill Stacker Detection Apparatus

**Preliminary Class**

271

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

**MAXINE BARASCH & ASSOCIATES, PLLC**
**18 CORPORATE WOODS BOULEVARD**
**ALBANY NY 12211**

MAILED

JUL 14 2010

OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Rose Anne Jarrett | : | |
| Application No. 11/539,834 | : | DECISION ON PETITION |
| Filed: October 9, 2006 | : | |
| Attorney Docket No. GRL-US-103 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2010. Accordingly, the date of abandonment of this application is April 13, 2010. A Notice of Abandonment was mailed on April 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**HENRICKS SLAVIN AND HOLMES LLP**
**SUITE 200**
**840 APOLLO STREET**
**EL SEGUNDO CA 90245**

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JAN 25 2010

| | | |
|---|---|---|
| In re Application of | : | |
| G. Gerry Schmidt | : | |
| Application No. 11/539,839 | : | RESPONSE TO PETITION |
| Filed: October 9, 2006 | : | |
| Attorney Docket No. 729290-046 | : | |

This is a response to the petitions under 37 CFR 1.182, filed December 14, 2009 and December 26, 2009, to expunge information from the above-identified application.

The petitions are **granted**.

An anonymous third party filed prior art related papers in the above-identified application on March 2, 2009 and December 14, 2009. These papers were filed under 35 USC 301. Since the above-identified application was published April 10, 2008, the papers had to be submitted in accordance with 37 CFR 1.99.

However, neither of the third party submissions: satisfy the fee requirements of 37 CFR 1.99(b)(1); include evidence that they were served upon the applicant, as required by 37 CFR 1.99(c); avoid the inclusion of an explanation of the patents or publications, or any other information, as required by 37 CFR 1.99(d); and were filed within two months from the date of publication of the above-identified application, as required by 37 CFR 1.99(e). Therefore, these papers were not properly filed.

It is agreed that it would be appropriate in this instance to expunge the third party papers filed March 2, 2009 and December 14, 2009 in the above-identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

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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OFFICE OF PETITIONS

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

| | | |
|---|---|---|
| In re Patent No. 7,483,969 | : | DECISION ON REQUEST |
| Issue date: January 27, 2009 | : | FOR RECONSIDERATION OF |
| Application No. 11/539,848 | : | PATENT TERM ADJUSTMENT |
| Filed: October 9, 2006 | : | and |
| Atty Docket No. 418268352US | : | NOTICE OF INTENT TO ISSUE |
| | : | CERTIFICATE OF CORRECTION |

This letter is in response to the "**LETTER REGARDING PATENT TERM ADJUSTMENT (PTA)**," filed March 27, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees request confirmation of the issuance of a patent term adjustment of 127 days.

The request for review of the determination of patent term adjustment (PTA) 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 **forty-two (42)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On January 27, 2009, the above-identified application matured into U.S. Patent No. 7,483,969, with a revised patent term adjustment of 127 days. On March 27, 2009, patentees submitted the instant comment.

Patentees state that the request for review of the patent term adjustment is based on the Office's failure to calculate the number of days for applicant delay correctly.

A review of the record reveals that the initial determination of patent term adjustment of 127 days is incorrect. Pursuant to 37 CFR 1.704(b), a period of reduction of 85 days should have been entered for the July 11, 2007 response to the Notice to File Missing Parts, mailed January 17, 2007. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, applicants did fail to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Missing Parts of Application mailed January 17, 2007 within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a complete and proper response until July 11, 2007. Accordingly, a period of reduction of 85 days is being entered for the period beginning on April 18, 2007, the day after the date that is three months after the date of mailing of the Notice, and ending on July 11, 2007, the date applicants' reply was filed.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of forty-two (42) days. (158 days of Office delay reduced by 116 (85 + 31) days of applicant delay).

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(b). 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 **forty-two (42)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Alesia Brown f/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,483,969 B2

DATED : January 27, 2009

INVENTOR(S) : Ankur Chavda, 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 (127) days

Delete the phrase "by 127 days" and insert – by 42 days--

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,483,969 B2

DATED : January 27, 2009

INVENTOR(S) : Ankur Chavda, 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 (127) days

Delete the phrase "by 127 days" and insert – by 42 days--

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**KELLEY DRYE & WARREN LLP**
**400 ALTLANTIC STREET , 13TH FLOOR**
**STAMFORD CT 06901**

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of
**SELINFREUND,** Richard H.
Application No. 11/539,868
Filed: October 09, 2006
Attorney Docket No. **VTI-124(P)(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 January 22, 2009 and re-submitted on February 05, 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 Marvin Wachs 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 December 22, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **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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**SCHNADER HARRISON SEGAL & LEWIS, LLP**
**1600 MARKET STREET**
**SUITE 3600**
**PHILADELPHIA PA 19103**

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FEB 03 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Forrest A. Burney, et al. | : | |
| Application No. 11/539,892 | : | DECISION GRANTING PETITION |
| Filed: October 10, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 3008292-0005-R | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 3, 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 September 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3781 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Robert D. Corsaro | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586236 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,912 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/10/2006 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN LLP-IBM POUGHKEEPSIE
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

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JUN 18 2009

**OFFICE OF PETITIONS**

In re Application of
Jaipaul K. Antony, et al.
Application No. 11/539,919
Filed: October 10, 2006
Attorney Docket No. POU920060072US1

ON PETITION

This is a decision in response to the petition, filed March 30, 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 reply in a timely manner to the Office Action Summary, mailed September 30, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 31, 2008. A Notice of Abandonment was mailed on February 13, 2009. On March 30, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2164 for appropriate action by the Examiner in the normal course of business on the response filed March 30, 2009.

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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PO BOX 37428
RALEIGH NC 27627

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of
WOLTERMANN et al.
Application No. 11/539,940
Filed: October 10, 2006
Attorney Docket No. 208-6174CT

DECISION ON PETITION

This is a decision on the "PETITION TO GRANT FILING DATE OF NONPROVISIONAL APPLICATION," filed February 22, 2007, requesting that the above-identified application be accorded a filing date of October 10, 2006.

The above-identified application was deposited on October 10, 2006. On January 8, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice), stating, *inter alia*, that the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on October 10, 2006, describes a drawing figure; however, no drawings were received in the United States Patent and Trademark Office (Office) on that date. The Notice of Incomplete Nonprovisional Application set a TWO-MONTH period from the date of the Notice to respond or the proceedings would be terminated.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process, method or composition claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains composition (mixture) claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for submission of drawings as set forth in the Notice of Incomplete Nonprovisional Application of January 8, 2007, was mailed in error and is hereby withdrawn.

The petition is **granted**. The application will be accorded a filing date of October 10, 2006, without any drawings as a part of the original disclosure. A petition fee is unnecessary. Petitioner may file a request for entry of the drawings with the examiner.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of **October 10, 2006**, and an indication in the Office records that zero "0" sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to the undersigned at (571) 272- 3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GENERAL MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David J. Stroh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643929 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,952 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/10/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **71** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Connolly Bove Lodge & Hutz
LLP
Suite 800
1990 M Street, N.W.
Washington DC 20036

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OFFICE OF PETITIONS

In re Application of :
Kondo et al. :
Application No. 11/539,955 : DECISION ON PETITION
Deposited: October 10, 2006 :
Attorney Docket No. 21994-00045-US4 :

This is a decision on the "Petition under 37 CFR 1.57(a)" filed January 18, 2006, requesting that the above-referenced application be accorded a filing date of October 10, 2006.

Application papers in the above-identified application were filed on October 10, 2006. However, on January 5, 2007, the Office of Initial Patent Examination 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 drawings as prescribed by 35 USC 113.

In response, applicants timely filed this petition. In which, applicants acknowledge inadvertently omitting the drawings on submission of the instant application. Applicant states that this application as filed contained a prior benefit claim under 37 CFR 1.78 to a prior filed and co-pending application(11/008,405)in which the inadvertently omitted drawings 1-33. Relying on §1.57(a), applicant states that the drawings were effectively incorporated by reference.

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 1.78 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 … § 1.78 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 claim under 1.78 for the benefit of prior-filed application No. 11/008,405. 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 drawings.

The instant petition includes an amendment adding the inadvertently omitted drawings, and an identification of where the inadvertently omitted drawings may be found in the prior-filed application, along with the necessary petition fee.

In view thereof, the petition is **GRANTED** to the extent indicated above.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of October 10, 2006**, using the application papers received in the Office on that date and the drawings submitted on petition filed January 18, 2007, and for indication in the records of the

Office that the application contains fourteen (18) sheets of drawings (containing figures 1-33).

Telephone inquiries concerning this matter may be directed to the Charlema Grant at (571) 272-3215.

Charles Pearson
Director
Office of Petitions

Docket No.: 21994-00045-US4
(PATENT)

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tetsuya Kondo et al.

Application No.: 11/539,955

Confirmation No.: 4601

Filed: October 10, 2006

Art Unit: 2655

For: INFORMATION RECORDING MEDIUM HAVING SUBSTRATE WITH MICROSCOPIC PATTERN AND REPRODUCING APPARATUS THEREFOR

Examiner: A. Neyzari

## PETITION UNDER 37 C.F.R. 1.57(a)

MS PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Incomplete Nonprovisional Application mailed January 5, 2007 (copy enclosed), Applicants respectfully submit herewith Submission of Drawings to add the inadvertently omitted drawings to the instant application, relying on 37 C.F.R. 1.57(a) and the incorporation by reference of parent application 11/008,405.

A $400 Petition fee is being submitted with this response. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 22-0185, under Order No. 21994-00045-US4.

Dated: January 18, 2007

Respectfully submitted,

By___/Morris Liss/_____
Morris Liss
Registration No.: 24,510
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant

Docket No.: 21994-00045-US4
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Tetsuya Kondo et al.

Application No.: 11/539,955

Confirmation Number: 4601

Filed: October 10, 2006

Art Unit: 2655

For: INFORMATION RECORDING MEDIUM HAVING SUBSTRATE WITH MICROSCOPIC PATTERN AND REPRODUCING APPARATUS THEREFOR

Examiner: A. Neyzari

**SUBMISSION OF DRAWINGS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is one set (eighteen sheets, thirty-three figures) of drawings for filing in the above-identified patent application.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 21994-00045-US4 from which the undersigned is authorized to draw.

Dated: January 18, 2007

Respectfully submitted,

By /Morris Liss/
Morris Liss
Registration No.: 24,510
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant

516397

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

SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR FL 34677

JAN 03 2007

| | |
|---|---|
| In re Application of: RESNICK<br>Serial No.: 11/539,960<br>Filed: October 10, 2006<br>Title: COMPACT RESPIRATOR PROTECTIVE HOOD | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the petition filed on October 17, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The

effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

# 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. |
|---|---|---|---|---|
| 11/539,970 | 10/10/2006 | Frank DePaul | 10061 | 4622 |

35420 7590 04/15/2008
MICHAEL P. MAZZA, LLC
686 CRESCENT BLVD.
GLEN ELYN, IL 60137

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1797 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/15/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRS

4-15-08

Application Number: 11/539,970
Filing Date: October 10, 2006
Applicant(s): DEPAUL, FRANK
For: OIL PURIFIER SYSTEM AND PROCESS

**DECISION ON REQUEST TO WITHDRAW PETITION TO CORRECT INVENTORSHIP**

This is a decision on (1) REQUEST TO WITHDRAW PETITION TO CORRECT INVENTORSHIP filed February 15, 2008, and (2) PETITION FOR CORRECTION OF INVENTORSHIP IN A NON-PROVISIONAL APPLICATION PURSUANT TO 37 C.F.R. § 1.48(a) filed January 9, 2007.

Applicants initially filed a petition to correct the inventorship on January 9, 2007 to add an inventor. Upon further consideration, applicant determined that the petition was made in error, and a request to withdraw the petition was filed.

Accordingly, the REQUEST TO WITHDRAW PETITION TO CORRECT INVENTORSHIP is **GRANTED**; and

The PETITION FOR CORRECTION OF INTENTORSHIP IN A NON-PROVISIONAL APPLICATION PURSUANT TO 37 C.F.R. § 1.48(a) filed January 9, 2007 is **DISMISSED**

/David R. Sample/
David R. Sample
Supervisory Patent Examiner
Technology Center 1700

MICHAEL P. MAZZA, LLC
686 CRESCENT BLVD.
GLEN ELYN IL 60137

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

CERMAK KENEALY VAIDYA & NAKAJIMA LLP
515 EAST BRADDOCK RD SUITE B
ALEXANDRIA, VA 22314

MAILED

FEB 22 2010

OFFICE OF PETITIONS

In re Application of :
Christopher Brian Dundon :
Application No. 11/539,973 :
Filed: October 10, 2006 :
Attorney Docket No. HRA3009-0050 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 20, 2009, 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 above-identified application became abandoned on May 21, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/539,981 | 10/10/2006 | Satoko Oyaizu | 297568US2SCONT | 4641 |

7590 07/31/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| ULLAH, ELIAS |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2892 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/31/2008 | 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.

Kaletis Buchanan
Patent Publication Branch
Office of Data Management

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Adjustment date: 07/30/2008  KKING1
10/10/2006 INTEFSW  00002026 11539981
02 FC:1111                    -500.00 DP
04 FC:1201                    -200.00 DP


Refund Ref:
07/30/2008          0030059114
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Credit Card Refund Total:      $700.00

Am Exp..: XXXXXXXXXXXX1006
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FORM PET651G (Rev. 08/07)

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Andre Cote | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646305 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/539,995 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/10/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**BRINKS HOFER GILSON & LIONE/ANN ARBOR**
**524 SOUTH MAIN STREET**
**SUITE 200**
**ANN ARBOR MI 48104**

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DEC 29 2009
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Koichi Yamaki et al | : | |
| Application No. 11/540,006 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. 130677-0008 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 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 the publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 1, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
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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LEE & HAYES, PLLC
c/o PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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APR 0 3 2007

**OFFICE OF PETITIONS**

In re Application of Posamentier :
Application No. 11/540,012 : Decision on Petition
Filing Date: September 29, 2006 :
Attorney Docket No. IN1-0052US :

This is a decision in response to the petition filed December 4, 2006, requesting, in effect, that Figure 5 of the drawings filed on December 4, 2006, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed September 29, 2006.

The Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" on October 24, 2006. The Notice stated Figure 5 of the drawings did not appear to be part of the application as filed.

In response, the present petition was filed. Petitioner alleges Figure 5 was filed with the original application. Petitioner has supplied a copy of a postcard receipt acknowledging receipt of 5 sheets of drawings. Petitioner has also supplied a copy of the drawings allegedly filed September 29, 2006.

A properly itemized postcard receipt is prima facie evidence that the items listed were received. However, such evidence is not conclusive and can be rebutted. In this particular case, a review of the 4 sheets of drawings filed September 29, 2006, indicates the following:

(1) The top of the first sheet includes the language, "Page 1 of 4."
(2) The top of the second sheet includes the language, "Page 2 of 4."
(3) The top of the third sheet includes the language, "Page 3 of 4."
(4) The top of the fourth sheet includes the language, "Page 4 of 4."

A review of the five sheets of drawings filed with the petition indicates each sheet states it is "Page [1,2, 3, 4, or 5] of 5."

All the evidence present in the file has been carefully considered. However, the evidence fails to establish Figure 5 of the drawings was filed September 29, 2006.

Since applicants have not filed a petition under 37 CFR 1.182 requesting December 4, 2006, the date the missing drawing sheet was filed, as the filing date, the drawings sheets filed on December 4, 2006, will not be entered.

Unless a request for reconsideration is filed, an amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if some of the material in the missing pages is not new matter, petitioner may wish to submit the missing material in the form of an amendment.

The Office of Initial Patent Examination will be informed of the instant decision and will process the application using only the application papers filed on September 29, 2006.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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APR 22 2009

OFFICE OF PETITIONS

In re Application of :
Kenji Yamagami :
Application No. 11/540,073 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. HTA-6785-03 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 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 August 1, 2008. A Notice of Abandonment was mailed on March 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the non-final Office action; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2444 for review of the response filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

Mail Date: 06/10/2010

| | | |
|---|---|---|
| **Applicant** | : Robert L. Goodwin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7667719 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,116 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **650** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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APR 29 2008

OFFICE OF PETITIONS

| | |
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| In re Application of | : |
| Kenneth McCormack et al | : |
| Application No. 11/540,145 | : DECISION GRANTING PETITION |
| Filed: September 29, 2006 | : UNDER 37 CFR 1.137(b) |
| Attorney Docket No. VPI/05-184 US | : |

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed October 27, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination for preexam processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 26 2007

OFFICE OF PETITIONS

INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

| | |
|---|---|
| In re Application of | : |
| Chuah and Law | : |
| Application No. 11/540,168 | : DECISION REFUSING STATUS |
| Filed: September 29, 2006 | : UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 42P24010 | : |
| For: **OXIDE OVERSTRESS TOLERANT CRYSTAL OSCILLATOR** | : |

This is a decision on the petition under 37 CFR 1.47(a), filed December 22, 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 September 29, 2006, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on October 19, 2006, requiring a properly executed oath or declaration and a surcharge for the late filing of the oath or declaration and payment of the surcharge.

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 maintains that inventor Law has constructively refused to join the prosecution of the application, it is not clear whether he was provided with a complete copy of the application papers, and not just the declaration and assignment. In order for the inventors' refusal to have merit relative to the instant petition, it must be clear that he was provided with a complete copy of the application papers. It is also requested that a copy of any pertinent e-mail communications sent to the non-signing inventors accompany the renewed petition.

Deposit account 02-2666 will be charged $130.00 for the surcharge required by the Notice to File Missing Parts of Nonprovisional Application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this 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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MAR 30 2007

**OFFICE OF PETITIONS**

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS
CANCELLED

In re Application of :
Chuah and Law :
Application No.: 11/540,168 : DECISION ACCORDING
Filed: September 29, 2006 : RULE 47(a) STATUS
Attorney Docket No: **42P24010** :
For: **OXIDE OVERSTRESS TOLERANT CRYSTAL OSCILLATOR**

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 9, 2007.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on September 29, 2006, without an executed oath or declaration. Accordingly, a "Notice to File Missing parts of Nonprovisional Application" (the "Notice") was mailed on October 19, 2006, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was filed on December 22, 2006, and dismissed by a decision mailed January 26, 2007.

Petitioner has shown that inventor Law has constructively refused to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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SEP 14 2007

OFFICE OF PETITIONS

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

| | | |
|---|---|---|
| In re Application of | : | |
| Dong et al. | : | |
| Application No. 11/540,171 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 762301-1550 | : | |

This is a decision on the petition, filed July 11, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 12, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/540,171 | 09/29/2006 | Thomas Dong | 762301-1550 |

**CONFIRMATION NO. 2591**

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

Date Mailed: 09/14/2007

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/03/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

**UNITED STATES DEPARTMENT OF COMMERCE**
**Patent and Trademark Office**
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

11/24/09

Patent No. :7591467
Inventor(s) :TERADA
Issued : 9/22/2009
Title : SHEET DETECTING DEVICE FOR IMAGE RECORDING APPARATUS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 8, is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

REED SMITH LLP
599 LEXINGTON AVENUE
NEW YORK, NY 10022-7650

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Mark A. Jozokos | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7625974 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/540,182 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/540,218 | 09/29/2006 | Robert P. Morris | I429/US | 2349 |

52354 7590 02/25/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
111 Corning Road
SUITE 220
Cary, NC 27518

| EXAMINER |
|---|
| DISTEFANO, GREGORY A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2175 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/25/2010 | 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

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
3100 Tower Blvd.
Suite 1200
Durham, NC 27707

MAILED

FEB 25 2010

Technology Center 2100

In re Application of:
MORRIS, Robert
Application No. 11/540,218
Filed: September 29, 2006
For: METHOD, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CONTROLLING PRESENTATION OF A RESOURCE BASED ON POSITION OR MOVEMENT OF A SELECTOR AND PRESENTABLE CONTENT

**DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)**

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 13, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on January 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from January 13, 2010. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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

LEE & HAYES, PLLC
c/o Intellevate, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 05/12/2010

| | | |
|---|---|---|
| **Applicant** | : Rony Ross | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7620416 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,225 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 0 1 2009

**OFFICE OF PETITIONS**

**TRIANGLE PATENTS, P.L.L.C.**
**P.O. BOX 28539**
**RALEIGH NC 27611-8539**

| | | |
|---|---|---|
| In re Application of | : | |
| McAlister et al. | : | DECISION ON PETITION |
| Application No. 11/540,235 | : | TO WITHDRAW |
| Filed: September 29, 2006 | : | FROM RECORD |
| Attorney Docket No. 4010-007 | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 8, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

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. The Customer Number 021005 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 October 5, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**TRIANGLE PATENTS, P.L.L.C.**
**P.O. BOX 28539**
**RALEIGH, NC 27611-8539**

MAILED

APR 19 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| McAlister et al. | : | DECISION ON PETITION |
| Application No. 11/540,235 | : | TO WITHDRAW |
| Filed: September 29, 2006 | : | FROM RECORD |
| Attorney Docket No. 3944.1022-000 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 11, 2010 the power of attorney to Triangle Patents, P.L.L.C. 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: HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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

**CASCADIA INTELLECTUAL PROPERTY**
**500 UNION STREET, STE. 1005**
**SEATTLE, WA 98101**

**MAILED**

MAR 30 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Gust H. BARDY | : | |
| Application No. 11/540,251 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 003.0583.US.DIV | | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 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 the attorneys of record were not appointed by Customer Number 49475, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PAULY, DEVRIES SMITH
DEFFNER, L.L.C.
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Robert E. Cypher | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594100 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/540,257 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON, DC 20005

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Sven-Eric Eigmeann | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7571165 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,266 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

**Thomas, Kayden, Horstemeyer & Risley, LLP**
**600 Galleria Parkway, S.E.**
**Suite 1500**
**Atlanta, GA 30339-5994**

**COPY MAILED**

DEC 19 2007

**OFFICE OF PETITIONS**

In re Application of

Steve Byrd et al.
Application No. 11/540,282
Filed: September 29, 2006
Attorney Docket No. 762301-1780

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 26, 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, ***change or attorneys in this case***, 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: **Stephen Roche**
**Setter Roche, LLP**
**P.O. Box 780**
**470 Briggs Street, Suite 105**
**Erie, CO 80516**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Thomas, Kayden, Horstemeyer & Risely, LLP**
**600 Galleria Parkway, S.E.**
**Atlanta, GA 30339-5994**

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MAY 0 8 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Steve Byrd, et al. | : | |
| Application No. 11/540,282 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 762301.1780 | : | FROM RECORD |
| | : | |

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 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David Rodack on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Steve Byrd**
**5535 Preserve Circle**
**Alpharetta, GA 30005**

cc: **Stephen Roche**
**Setter Roche, LLP**
**P.O. Box 780**
**470 Briggs Street, Suite 105**
**Erie, CO 80516**

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/540,282 | 09/29/2006 | Steve Byrd | 762301-1780 |

**CONFIRMATION NO. 2764**

**POWER OF ATTORNEY NOTICE**

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

*OC000000029805605*

Date Mailed: 05/07/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/08/2008.

- 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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**FOLEY & LARDNER LLP**
**P.O. BOX 80278**
**SAN DIEGO CA 92138-0278**

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MAR 1 4 2008

**OFFICE OF PETITIONS**

In re Application of

**ARNETT,** Jeffrey D. et al.
Application No. 11/540,284
Filed: September 29, 2006
Attorney Docket No. **023727-1704**

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 12, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard Warburg on behalf of all attorneys of record who are associated with customer No. 30542. 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JEFFREY D. ARNETT**
**3362 AVACADO VISTA LANE**
**FALLBROOK, CA 92028**

cc: **UNDERWATER KINETICS, INC.**
**13400 DANIELSON STREET**
**POWAY, CA 92064**

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**Thomas, Kayden, Horstemeyer & Risley, LLP**
**600 Galleria Parkway, S.E.**
**Suite 1500**
**Atlanta, GA 30339-5994**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Joseph Watson | : | |
| Application No. 11/540,322 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 762301-1880 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2007.

The request is **NOT APPROVED**.

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, ***change or attorneys in this case***, 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: **Stephen Roche**
**Setter Roche, LLP**
**P.O. Box 780**
**470 Briggs Street, Suite 105**
**Erie, CO 80516**

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**600 Galleria Parkway, S.E.**
**Atlanta, GA 30339-5994**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Joseph Watson | : | |
| Application No. 11/540,322 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 762301.1780 | : | FROM RECORD |

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 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David Rodack on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Joseph Watson**
**130 Highland Oaks Court**
**Alpharetta, GA 30004**

cc: **Stephen Roche**
**Setter Roche, LLP**
**P.O. Box 780**
**470 Briggs Street, Suite 105**
**Erie, CO 80516**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/540,322 | 09/29/2006 | Joseph Watson | 762301-1880 |

**CONFIRMATION NO. 2355**

**POWER OF ATTORNEY NOTICE**

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

*OC000000029806140*

Date Mailed: 05/07/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/08/2008.

- 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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**4350 LA JOLLA VILLAGE DRIVE #700**
**7TH FLOOR**
**SAN DIEGO, CA 92122**

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NOV 10 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **ZHENG**, Yu | : | |
| Application No. 11/540,369 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **44435-0002CIP2** | : | 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 27, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Steven A. Moore does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PATENT CATGORY CORPORATION**
**ATTN: THOMAS DOVER**
**368 S. CHERYL LANE**
**INDUSTRY CA 91789**

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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FEB 15 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Im, et al. | : | |
| Application No. 11/540,381 | : | ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. 51876P1137 | : | |
| For: MULTI-PORT MEMORY DEVICE HAVING SELF-REFRESH MODE | | |

This is a decision on the petition captioned under 37 CFR 1.10(e), filed November 9, 2006 (certificate of mailing date November 3, 2006), requesting that the above-identified application be accorded a filing date of September 28, 2006, rather than the presently accorded filing date of September 29, 2006. The petition will be treated under 37 CFR 1.10(c).

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on September 28, 2006. In support of this contention, petitioners have supplied with the present petition a copy of Express Mail Receipt No. EV889758618US, bearing a "date-in" of "9 28 06". The original Utility Patent Application Transmittal found in the application file references Express Mail Receipt Number: EV889758618US.

In view of the above, the petition is **granted**.

No fee has been or will be charged in connection with this matter.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **September 28, 2006.** Thereafter, this application file will be forwarded to Technology Center A.U. 2824 for examination in due course.

Telephone inquiries concerning this matter 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
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Alexandria, Virginia 22313-1450
www.uspto.gov

Bruce Silverman
Apt. 339
7160 Cahill Rd.
Minneapolis, MN 55439

Mail Date: 07/01/2010

| | | |
|---|---|---|
| **Applicant** | : Bruce David Silverman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648140 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,399 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **646** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

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NOV 2 1 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Samuel J. Messinger | : | |
| Application No. 11/540,400 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 29474-002 CIP | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Ingrid A. Beattie on behalf of all attorneys of record who are associated with customer No. 30623.

All attorneys/agents associated with the Customer Number 30623 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. SAMUEL MESSINGER
PO BOX 402861
MIAMI BEACH, FL 33140

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/540,400 | 09/28/2006 | Samuel J. Messinger | 29474-002 CIP |

**CONFIRMATION NO. 9849**

**POWER OF ATTORNEY NOTICE**

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

*OC000000026725024*

Date Mailed: 11/14/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/11/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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MAR 19 2007

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Patterson, et al. | : DECISION REFUSING STATUS |
| Application No. 11/540,424 | : UNDER 37 CFR 1.47(a) |
| Filed: September 29, 2006 | : |
| Atty. Dkt. No.: 64122665US01 | : |
| For: EFFICIENT TISSUE ROLL | : |
| CONFIGURATIONS | : |

This decision is in response to the petition under 37 CFR 1.47(a) filed December 18, 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 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed October 19, 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), petitioners have 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.

While the petition references an affidavit regarding the unavailability of the non-signing inventor, no such affidavit is to be found among the nine page petition received.

Nevertheless, where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners has not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Moreover, while petitioners assert that the non-signing inventor cannot be located, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database revealed the following more recent addresses for the non-signing inventor: 11515 Village Lane, Evansville, IN 47725-1191 and PO Box 15485, Evansville, IN 47716.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64, should petitioners determine a more accurate residence and address for the non-signing inventor, appropriate correction would be required.

As to item (3), the required petition fee is $200.00. Petitioners submitted $130.00. The remaining fee due has been charged to petitioners' deposit account, as authorized.

As to item (4), further evidence of the non-signing inventor's last known address is required should petitioners determine a more accurate address.

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By hand: | U.S. U.S. Patent and Trademark Office<br>Customer Service Window<br>Mail Stop Petition<br>Randolph Building<br>401 Dulaney Street<br>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

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P.O. Box 1450
Alexandria, VA 22313-1450
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**RUTAN & TUCKER, LLP**
**611 ANTON BOULEVARD, SUITE 1400**
**COSTA MESA, CA 92626**

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| | |
|---|---|
| In re Application of<br>**Jewel L. DOHAN**<br>Application No. 11/540,447<br>Filed: September 28, 2006<br>Attorney Docket No. **D034-8000** | 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 **RUTAN & TUCKER, LLP** has been revoked by the applicant of the patent application on January 11, 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: **WANG HARTMANN & GIBBS**
**1301 DOVE STREET, SUITE 1050**
**NEWPORT BEACH, CA 92660**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC**
**1900 EMBARCADERO ROAD**
**SUITE 109**
**PALO ALTO CA 94303**

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JAN 16 2009

In re Application of :

**WANG,** You et al. :
Application No. 11/540,494 : DECISION ON PETITION
Filed: September 28, 2006 : TO WITHDRAW
Attorney Docket No. **100112-001510US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 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: **COPAN SYSTEMS INC.**
**1900 PIKE ROAD, UNIT A**
**LONGMONT CO 80501**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC**
**1900 EMBARCADERO ROAD**
**SUITE 109**
**PALO ALTO CA 94303**

MAILED

FEB 24 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| **WANG,** You et al. | : | |
| Application No. 11/540,494 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **100112-001510US** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 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 Charles Kulas on behalf of all attorneys of record who are associated with customer No. 37490. All attorneys/agents associated with the Customer Number 37490 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 November 28, 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: **YOU WANG**
**5111 BELLA VISTA DR.**
**LONGMONT CO 80503**

cc: **COPAN SYSTEMS INC.**
**1900 PIKE ROAD, UNIT A**
**LONGMONT CO 80501**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** 20100619

**DATE** : **5-26-10**

**TO SPE OF** : ART UNIT **2442**

**SUBJECT** : Request for Certificate of Correction for Appl. No.: **11540497** Patent No.: **7698392**

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

/Andrew Caldwell/
Andrew Caldwell
**SPE**

2442
**Art Unit**

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**TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC**
**1900 EMBARCADERO ROAD**
**SUITE 109**
**PALO ALTO CA 94303**

**MAILED**

MAR 0 3 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **WANG,** You et al. | : | |
| Application No. 11/540,500 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **100112-001710US** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2008 and resubmitted January 28, 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 Charles J. Kulas on behalf of all attorneys of record who are associated with customer No. 37490. 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 are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **YOU WANG**
**5111 BELLA VISTA DR.**
**LONGMONT, CO 80503**

cc: **COPAN SYSTEMS INC.**
**1900 PIKE ROAD, UNIT A**
**LONGMONT, CO 80501**

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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** | : Masaru Kadoshima | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618855 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/540,506 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

| | | |
|---|---|---|
| **Applicant** | : Tony V. Mule | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649264 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,528 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/28/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **516** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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7/18/08

Patent No. :7388781
Ser. No. :11/540560
Inventor(s) :LITSYN
Issued : 6/17/08
Title : MULTI-BIT-PER-CELL FLASNH MEMORY DEVICE WITH NON-BIJECTIVE MAPPING
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
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

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

MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH, 9003 FLIRIN WAY
UPPER MARLBORO, MD 20772

HR

**UNITED STATES DEPARTMENT OF COMMERCE**
**COMMISSIONER FOR PATENTS**
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

| | |
|---|---|
| Date | : 9/10/2008 |
| Patent No. | : 7,388,781 B2 |
| Inventor(s) | : Litsyn et al. |
| Issue Date | : June 17, 2008 |
| Title | : **MULTI-BIT-PER-CELL FLASH MEMORY DEVICE WITH NON-BIJECTIVE MAPPING** |
| Doc./File No. | : **4168/10** |

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, in the new request dated 7/30/08, it is stated that a rquest is for the inventor's name to be changed. In the original request dated 6/25/08, it is requested that the assignee be changed, so it is presumed that what is meant that it is for the assignee, as there is no error found in the inventors data.

Please refer to the instructions as set forth in the denial letter dated 6/25/08. A petition is required to consider granting of a request for changing the assignee, and not solely by way of a certificate of correction. Therefore, no correction is in order here again, unless a petition is filed and then granted with the appropriate fee(s) described in the original denial letter.

In the most recent request dated 8/31/08 to replace drawing figure 8, the drawing figure is printed in accordance with the original drawing figure presented at the time of the issue fee payment. No desrepency is found when compared to the original drawing figure 8, if there is a descrepency in the spelling or gramma a certificate of correction will be considered along with the appropriate fee ($100) if necessary.

Please provide the office indicating alleged error(s) or changes to drawing figure 8.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

ecw

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MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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OFFICE OF PETITIONS

In re Patent No. 7,388,781 :

Issue Date: June 17, 2008 :

Application No. 11/540,560 : ON PETITION

Filed: October 2, 2006 :

Attorney Docket No. 4168/10

This is a decision on the petition filed July 30, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file will be directed to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| YAMAZAKI, Shunpei | : | |
| Application No. 11/540,593 | : | DECISION GRANTING PETITION |
| Filed: October 2, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 0756-7820 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 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 July 11, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2818 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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**ERIC ROBINSON**
**PMB 955**
**21010 SOUTHBANK ST.**
**POTOMAC FALLS, VA 20165**

**MAILED**

MAR 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Shunpei **YAMAZAKI** | : | |
| Application No. 11/540,593 | : | DECISION GRANTING PETITION |
| Filed: October 2, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **0756-7820** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on January 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2893 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.*

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Manelii Denison & Selter PLLC
2000 M Street
7th Floor
Washington DC, DC 20036

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Wayne E. Voice | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641847 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/540,596 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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| | | |
|---|---|---|
| In re Application of | : | |
| Keith L. Doty | : | |
| Application No. 11/540,620 | : | DECISION ON PETITION |
| Filed: September 19, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. Soy-100C1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3733 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of :
PASCHEREIT and SCHUERMANS :
Application No. 11/540,636 :
Filed: 10/02/2006 :
Attorney Docket No. 1033275-000499 :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 20, 2006.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center AU 3749 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Herr Prof. Dr. Christian Oliver Paschereit
Lohengrinstrasse 29
D-14109 Berlin
Germany AIR MAIL

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of :
PASCHEREIT and SCHUERMANS :
Application No. 11/540,636 :
Filed: 10/02/2006 :
Attorney Docket No. 1033275-000499 :

LETTER

Dear Dr. Paschereit:

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 1 (800) 972-6382 (outside the Washington, DC area).

C. T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/25/09

Paper No.: —

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/540654 Patent No.: 7472371 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:** OK to enter

/Jack Chiang/
**SPE**

2825
**Art Unit**

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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

MAILED

MAY 26 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Alexander C. Lang | : | |
| Application No. 11/540,667 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 15515-15 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed February 21, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Bhupinder Randhawa does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Avi J. Ashkenazi et al. :
Application No. 11/540,701 :
Filed: September 29, 2006 :
Attorney Docket No. P1267R1C3 :

ON PETITION

This is a decision on the petition, filed November 6, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned on April 18, 2008, for failure to file a timely response to a Restriction Requirement mailed March 17, 2008, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed September 25, 2008.

Petitioner argues however that a response was filed on September 11, 2008 with a five month extension of time and provides copies of the response which bears a certificate of mail dated September 11, 2008, filed with a copy of a post card receipt post marked on September 11, 2008 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, a response was filed on September 11, 2008. As well, copy of the post-card receipt, date stamped by the USPTO on September 11, 2008 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed September 25, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1643 for treatment of the response filed September 11, 2008 as appropriate.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP**
**100 GALLERIA PARKWAY, NW**
**SUITE 1750**
**ATLANTA, GA 30339-5948**

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OFFICE OF PETITIONS

In re Application of

**BYRD,** Steve et al.
Application No. 11/540,739
Filed: September 29, 2006
Attorney Docket No. **762301-1740**

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 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **STEPHEN ROCHE**
**P.O. BOX 780**
**470 BRIGGS STREET, SUITE 105**
**ERIE, CO 80516**

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**THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP**
**600 GALLERIA PARKWAY**
**STE 1500**
**ATLANTA, GA 30339**

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NOV 30 2007

**OFFICE OF PETITIONS**

In re Application of

**BYRD,** Steve et al.
Application No. 11/540,739
Filed: September 29, 2006
Attorney Docket No. **762301-1740**

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 26, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David Rodack on behalf of all attorneys of record who are associated with customer No. 24504. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **STEVE BYRD**
**5535 PRESERVE CIRCLE**
**ALPHARETTA, GA 30005**

cc: **STEPHEN ROCHE**
**SETTER ROCHE, LLP**
**P.O. BOX 780**
**470 BRIGGS STREET**
**ERIE, CO 80516**

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**MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.**
**ONE FINANCIAL CENTER**
**BOSTON MA 02111**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Feyzi Celik | : | |
| Application No. 11/540,820 | : | DECISION GRANTING PETITION |
| Filed: September 28, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 18358-017 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 2, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on October 16, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 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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ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Feyzi Celik | : | |
| Application No. 11/540,820 | : | DECISION GRANTING PETITION |
| Filed: September 28, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 18358-017 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on March 16, 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 the 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 2617 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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VAN PELT, YI & JAMES LLP AND EMC CORPORATION
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mandavillinavneeth Rao, et al. | : | |
| Application No. 11/540,832 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | |
| Attorney Docket No. EMCCP150 | : | |

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed February 12, 2009, to revive the above-identified application.

The petition 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 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely pay the issue fee on or before January 7, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 7, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 8, 2009. A Notice of Abandonment was mailed on February 2, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (3).

Petitioner asserts that the Notice of Allowance mailed October 7, 2008 was not received; however, petitioner acknowledges that the Notice was mailed to correct address of record.

A review of the application file reveals no irregularities in the mailing of the Office action mailed October 7, 2008. Thus, there is a strong presumption that the correspondence was properly mailed to and received by the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Office action, petitioner must submit evidence to overcome this presumption.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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**VAN PELT, YI & JAMES LLP AND EMC CORPORATION**
**10050 N. FOOTHILL BLVD.**
**SUIT 200**
**CUPERTINO CA 95014**

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JUN 16 2009

**OFFICE OF PETITIONS**

In re Application of
Mandavilli Navneeth Rao et al
Application No. 11/540,832
Filed: September 28, 2006
Attorney Docket No. EMCCP150

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 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 the issue fee and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed October 7, 2008, is accepted as having been unintentionally delayed.

The entire delay statement provided in the petition submitted on May 15, 2009, reference 1.37(a) instead of 1.137(b). The reference is being construed as 1.137(b). If this is an incorrect interpretation, petitioner should notify the Office in writing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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**10050 N. FOOTHILL BLVD., SUITE 200**
**CUPERTINO, CA 95014**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **Mandavilli N. RAO, et al.** | : | |
| Application No. 11/540,832 | : | DECISION GRANTING PETITION |
| Filed: September 28, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **EMCCP150** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on February 12, 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 2187 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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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Ventsislav Ivanov | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640459 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,851 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **415** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Curtis Nauseda | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650805 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/540,856 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/540,876 | 09/29/2006 | Eric F. Aas | 200601045-1 | 2818 |

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

| EXAMINER |
|---|
| GARG, YOGESH C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3625 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/09/2008 | 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/08/2008 KKING1
10/04/2006 MBIZUNES 00000016 082025 11540876
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**David W. Carrithers**
**Carrithers Law Office, PLLC**
**One Paragon Centre**
**6060 Dutchman's Lane, Suite 140**
**Louisville, KY 40205**

**COPY MAILED**

AUG 04 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Mahendra Kumar Sunkara et al. | : | |
| Application No. 11/540,913 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. AH103/2005.05017 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 29, 2007. A Notice of Abandonment was mailed on May 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2823 for appropriate action by the Examiner in the normal course of business on the reply received May 27, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: David W. Carrithers
6200 Dutchmans Lane, Ste. 206
Louisville, KY 40205

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TECHNOLOGY CENTER 2600

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/540,919 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0022001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 10, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 7 above in that the petition fails to include the required petition fee under 37 CFR 1.17(h).

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any Response must be submitted by EFS web.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/540,919 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0022001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 29, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/540,920 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0021001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 11, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 7 above in that the petition fails to include the required petition fee under 37 CFR 1.17(h).

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any Response must be submitted by EFS web.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
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|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/540,920 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0021001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 29, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 07/23/2010

| | | |
|---|---|---|
| **Applicant** | : Hee Suk Pang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653533 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/540,920 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **670** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Travis Cook
276 Meadow Creek Road
Prairie ID 83647

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of

Travis Cook
Application No. 11/540,942
Filed: September 28, 2006
Attorney Docket No. 4210

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the attorney cannot withdraw using the Customer Number when the power of attorney was not originally granted by Customer Number in the Declaration and Power of Attorney filed December 26, 2006.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ken J. Pedersen
P.O. Box 2666
Boise, ID 83701-2666

UNITED STATES PATENT AND TRADEMARK OFFICE

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Travis Cook
276 Meadow Creek Road
Prairie ID 83647

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of

Travis Cook
Application No. 11/540,942
Filed: September 28, 2006
Attorney Docket No. 4210

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 CFR § 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 to 37 CFR 10.40.

The request was signed by Kenneth J. Pedersen on behalf of all attorneys of record who are associated with the above-identified application.

All attorneys/agents associated with the above-identified application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Travis Cook at the address list listed in the request.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ken J. Pedersen
P.O. Box 2666
Boise, ID 83701-2666

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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 |
|---|---|---|---|
| 11/540,942 | 09/28/2006 | Travis Cook | 4210 |

**CONFIRMATION NO. 8685**

**POWER OF ATTORNEY NOTICE**

Travis Cook
276 Meadow Creek Road
Prairie, ID 83647

*OC000000039114154*

Date Mailed: 12/07/2009

## 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.

/jlburke/

---

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.

IPFortune LLC
1045 North Utah Street, Unit 502
Arlington VA 22201

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MAR 30 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cheng-Kuo Lin et al. | : | |
| Application No. 11/540,974 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | PURSUANT TO |
| Attorney Docket No.: MLin_001 | : | 37 C.F.R. § 1.181 |
| Title: ON-CHIP ESD PROTECTION | : | |
| CIRCUIT USING ENHANCEMENT-MODE | : | |
| HEMT/MESFET TECHNOLOGY | : | |

This is a decision on the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 C.F.R.§137(a)," submitted on March 5, 2009. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.181(a).

This petition is **DISMISSED**.

The Change of Correspondence Address and Power of Attorney, submitted on March 26, 2009, has been entered and made of record.

## BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

## RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) and (b) set forth, *in toto*:

(a) 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, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) **Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).**
(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) **An assignee as provided for under § 3.71(b) of this chapter**; or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken**

**action in the application in accordance with § 3.71 of this chapter.**

Emphases added.

37 C.F.R. § 3.71(b) set forth, *in toto*:

Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. § 3.73(b) set forth, *in toto*:

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

## ANALYSIS

With this petition, Petitioner has indicated that the notice of October 31, 2008 was not received as it was been sent to the prior representative.

The record shows that Petitioner submitted a "POWER OF ATTORNEY and CHANGE OF CORRESPONDENCE ADDRESS FORM" on October 15, 2008 (hereinafter referred to as "the power of attorney form of October 15, 2008.") These requests were not effectuated however, as a statement under 37 C.F.R. § 3.73(b) was not concurrently submitted.[3]

As such, the power of attorney form of October 15, 2008 failed to comply with 37 C.F.R. §§ 1.33(a), (b)(3), and (b)(4). The form was **executed by an officer of the Assignee, however, the right of this Assignee to take action was not established,** pursuant to 37 C.F.R. § 3.73(b)(1). It follows that this request could not be effectuated, and as such, the Office properly refused entry of the same.

Hence, the subsequently mailed notice of October 31, 2008 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a).

## 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. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). Unless Petitioner believes that she can successfully assert that the entire period of delay was unavoidable, she may wish to file pursuant to the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-

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3 It is noted that the submission indicates that a Rule 3.73(b) statement was "enclosed," however a contemporaneously submitted copy of the same has not been located in the electronic record.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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APR 22 2009

OFFICE OF PETITIONS

IPFortune LLC
1045 North Utah Street, Unit 502
Arlington VA 22201

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| In re Application of | : | |
| Cheng-Kuo Lin et al. | : | |
| Application No. 11/540,974 | : | DECISION ON RENEWED PETITION |
| Filed: October 2, 2006 | : | PURSUANT TO |
| Attorney Docket No.: MLin_001 | : | 37 C.F.R. § 1.181 |
| Title: ON-CHIP ESD PROTECTION | : | |
| CIRCUIT USING ENHANCEMENT-MODE | : | |
| HEMT/MESFET TECHNOLOGY | : | |

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on April 6, 2009.

This renewed petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

## RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) and (b) set forth, *in toto*:

(a) 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, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) **Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).**
(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) **An assignee as provided for under § 3.71(b) of this chapter;** or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

Emphases added.

37 C.F.R. § 3.71(b) sets forth, *in toto*:

> Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
> (1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
> (2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. § 3.73(b) sets forth, *in toto*:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

## PROCEDURAL HISTORY AND ANALYSIS

An original petition was filed on March 5, 2009, where Petitioner indicated that the notice of October 31, 2008 was not received as it had been sent to the prior representative.

The original petition was dismissed via the mailing of a decision on March 30, 2009, which indicated, *in pertinent part*:

> The record shows that Petitioner submitted a "POWER OF ATTORNEY and CHANGE OF CORRESPONDENCE ADDRESS FORM" on October 15, 2008 (hereinafter referred to as "the power of attorney form of October 15, 2008.") These requests were not effectuated however, as a statement under 37 C.F.R. § 3.73(b) was not concurrently submitted.[3]
>
> As such, the power of attorney form of October 15, 2008 failed to comply with 37 C.F.R. §§ 1.33(a), (b)(3), and (b)(4). The form was **executed by an officer of the Assignee, however, the right of this Assignee to take action was not established** (emphasis included), pursuant to 37 C.F.R. § 3.73(b)(1). It follows that this request could not be effectuated, and as such, the Office properly refused entry of the same.
>
> Hence, the subsequently mailed notice of October 31, 2008 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a).
>
> Decision on original petition, page 4.

With this renewed petition, Petitioner has asserted:

> "[b]ecause of the address change the incompleteness of the request of change (sic) correspondence address was never brought to the attention of the applicants, and further resulted in unavoidable delay (sic) payment of the issue and publication fees."
>
> Renewed petition, page 2.

Petitioner has thus appeared to have suggested that the Office mailed notification of the failure to establish the right of the Assignee to take action, and this notification was mailed to the official correspondence address of record at the time. This is not accurate - the Office mailed no such notification. This application did not go abandoned for failure to correct the failure to establish the right of the Assignee to take action concurrently with the request to change the correspondence address - this application went abandoned for failure to respond to the notice of October 31, 2008, which was properly mailed to the correspondence address of record. **This Office communication was not received however, due to Assignee's/Petitioner's filing error**, and as such, the record does not support a finding that the holding of abandonment should be withdrawn.

## 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. § 1.181." This is not a final agency action within the meaning of 5 U.S.C

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3 It is noted that the submission indicates that a Rule 3.73(b) statement was "enclosed," however a contemporaneously submitted copy of the same has not been located in the electronic record.

§ 704.

It does not appear that Petitioner will be able to establish that the holding of abandonment should be withdrawn. Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). Unless Petitioner believes that she can successfully assert that the entire period of delay was unavoidable, she may wish to file pursuant to the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Cheng-Kuo Lin et al. | : | |
| Application No. 11/540,974 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | PURSUANT TO |
| Attorney Docket No.: MLin_001 | : | 37 C.F.R. § 1.137(A) |
| Title: ON-CHIP ESD PROTECTION | : | |
| CIRCUIT USING ENHANCEMENT-MODE | : | |
| HEMT/MESFET TECHNOLOGY | : | |

This is a decision on the petition filed May 3, 2009, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

## RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) and (b) set forth, *in toto*:

(a) 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, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) **Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).**
(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) **An assignee as provided for under § 3.71(b) of this chapter**; or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

Emphases added.

37 C.F.R. § 3.71(b) sets forth, *in toto*:

> Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
> (1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
> (2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. § 3.73(b) sets forth, *in toto*:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

## The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the

> application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[3]
>
> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[4]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[5]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[6]

The burden of showing the cause of the delay is on the person seeking to revive the application.[7]

"[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."[8]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[9]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[10]

## PROCEDURAL HISTORY

An original petition pursuant to 37 C.F.R. § 1.181 was filed on March 5, 2009, where Petitioner indicated that the notice of October 31, 2008 was not received as it had been sent to the prior representative.

The original petition was dismissed via the mailing of a decision on March 30, 2009, which indicated, *in pertinent part*:

> "The record shows that Petitioner submitted a "POWER OF ATTORNEY and CHANGE OF CORRESPONDENCE ADDRESS FORM" on October 15, 2008 (hereinafter referred to as "the power of attorney form of October 15, 2008.") These requests were not effectuated however,

9 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
10 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

> as a statement under 37 C.F.R. § 3.73(b) was not concurrently submitted.[11]
>
> As such, the power of attorney form of October 15, 2008 failed to comply with 37 C.F.R. §§ 1.33(a), (b)(3), and (b)(4). The form was **executed by an officer of the Assignee, however, the right of this Assignee to take action was not established** (emphasis included), pursuant to 37 C.F.R. § 3.73(b)(1). It follows that this request could not be effectuated, and as such, the Office properly refused entry of the same.
>
> Hence, the subsequently mailed notice of October 31, 2008 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a)."
>
> Decision on original petition pursuant to 37 C.F.R. § 1.181, page 4.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 6, 2009, which was dismissed via the mailing of a decision on April 22, 2009, which indicated:

> "this application went abandoned for failure to respond to the notice of October 31, 2008, which was properly mailed to the correspondence address of record. This Office communication was not received however, due to Assignee's/Petitioner's filing error."
>
> Decision on renewed petition pursuant to 37 C.F.R. § 1.181, page 4.

## 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, 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.

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11 It is noted that the submission indicates that a Rule 3.73(b) statement was "enclosed," however a contemporaneously submitted copy of the same has not been located in the electronic record.

With this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included the petition fee.

The second requirement of Rule 1.137(a) has been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[12]

**Regarding the first requirement**, 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.[13] In order for the application to be revived, petitioner must submit a reply that satisfies 37 C.F.R. §1.137(a)(1) (*i.e.*, **the issue and publication fees**). The petition was not accompanied by either of these replies.

**Regarding the third requirement**, with this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has explained that the omission of the statement under 37 C.F.R. § 3.73(b) from the filing of October 15, 2008 was both "advertent" and unintentional.[14] The Office will presume this to be a typographical error, and will interpret this statement as a representation that the omission was both unintentional and inadvertent rather than advertent. Petitioner must notify the Office if this is an incorrect interpretation of this statement.

**The omission of a necessary component to effectuate both the Power of Attorney and the Change of Address requests may have constituted unintentional delay, but it does not rise to the level of unavoidable delay.**

## 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. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Unless Petitioner believes that she can successfully assert that the entire period of delay was unavoidable, she may wish to file a petition pursuant to the unintentional standard (37 C.F.R. § 1.137(b)).

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12 See Rule 1.137(d).
13 See MPEP § 711.03(c).
14 Petition pursuant to 37 C.F.R. § 1.137(a), page 2.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[15] hand-delivery,[16] or facsimile.[17] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[18]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[19] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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15 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
16 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
17 (571) 273-8300- please note this is a central facsimile number.
18 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
19 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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OFFICE OF PETITIONS

In re Application of
Cheng-Kuo Lin et al.
Application No. 11/540,974
Filed: October 2, 2006
Attorney Docket No.: MLin_001
Title: ON-CHIP ESD PROTECTION CIRCUIT USING ENHANCEMENT-MODE HEMT/MESFET TECHNOLOGY

DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(A)

This is a decision on the renewed petition filed June 30, 2009, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This renewed petition is **DISMISSED**.

## BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

## RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) and (b) set forth, *in toto*:

> (a) 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

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

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, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) **Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).**
(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) **An assignee as provided for under § 3.71(b) of this chapter;** or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

Emphases added.

37 C.F.R. § 3.71(b) sets forth, *in toto*:

Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or

> (2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. § 3.73(b) sets forth, *in toto*:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

## The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[3]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed.

> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[4]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[5]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[6]

The burden of showing the cause of the delay is on the person seeking to revive the application.[7]

"[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."[8]

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies

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Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[9]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[10]

## PROCEDURAL HISTORY

An original petition pursuant to 37 C.F.R. § 1.181 was filed on March 5, 2009, where Petitioner indicated that the notice of October 31, 2008 was not received as it had been sent to the prior representative.

The original petition was dismissed via the mailing of a decision on March 30, 2009, which indicated, *in pertinent part*:

> "The record shows that Petitioner submitted a "POWER OF ATTORNEY and CHANGE OF CORRESPONDENCE ADDRESS FORM" on October 15, 2008 (hereinafter referred to as "the power of attorney form of October 15, 2008.") These requests were not effectuated however, as a statement under 37 C.F.R. § 3.73(b) was not concurrently submitted…
>
> As such, the power of attorney form of October 15, 2008 failed to comply with 37 C.F.R. §§ 1.33(a), (b)(3), and (b)(4). The form was **executed by an officer of the Assignee, however, the right of this Assignee to take action was not established** (emphasis included), pursuant to 37 C.F.R. § 3.73(b)(1). It follows that this request could not be effectuated, and as such, the Office properly refused entry of the same.
>
> Hence, the subsequently mailed notice of October 31, 2008 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a)."
>
> Decision on original petition pursuant to 37 C.F.R. § 1.181, page 4.

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9 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
10 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 6, 2009, which was dismissed via the mailing of a decision on April 22, 2009, which indicated:

> "this application went abandoned for failure to respond to the notice of October 31, 2008, which was properly mailed to the correspondence address of record. This Office communication was not received however, due to Assignee's/Petitioner's filing error."
>
> Decision on renewed petition pursuant to 37 C.F.R. § 1.181, page 4.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on filed May 3, 2009, and was dismissed via the mailing of a decision on June 8, 2009.

## 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, 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.

The decision on the original petition pursuant to 37 C.F.R. § 1.137(a) indicated that the second requirement of Rule 1.137(a) has been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[11]

With this renewed petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included the issue and publication fees. As such, the first requirement of Rule 1.137(a) has been satisfied.

To date, requirements (1) and (2) of Rule 1.137(a) have been satisfied.

**Regarding the third requirement**, this application went abandoned due to Petitioner's filing error - specifically, the statement

11 See Rule 1.137(d).

under 37 C.F.R. § 3.73(b) was omitted from the filing of October 15, 2008

As was indicated on the seventh page of the decision on the original petition pursuant to 37 C.F.R. § 1.137(a):

> **"The omission of a necessary component to effectuate both the Power of Attorney and the Change of Address requests may have constituted unintentional delay, but it does not rise to the level of unavoidable delay."**
>
> Emphasis included.

With this renewed petition pursuant to 37 C.F.R. § 1.137(a), this remains the case. Petitioner's omission might have constituted unintentional delay, but it does not rise to the level of unavoidable delay.

## 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.

Unless Petitioner believes that she can successfully establish that the entire period of delay was unavoidable, she may wish to file a petition pursuant to the unintentional standard (37 C.F.R. § 1.137(b)).

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[12] hand-delivery,[13] or facsimile.[14] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[15]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything

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12 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
13 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
14 (571) 273-8300- please note this is a central facsimile number.
15 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[16] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

16 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Arlington VA 22201

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OCT 28 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Cheng-Kuo Lin et al.<br>Application No. 11/540,974<br>Filed: October 2, 2006<br>Attorney Docket No.: MLin_001<br>Title: ON-CHIP ESD PROTECTION CIRCUIT USING ENHANCEMENT-MODE HEMT/MESFET TECHNOLOGY | DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(A) |

This is a decision on the second renewed petition filed July 28, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

## The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[3]
>
> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[4]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[5]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[6]

The burden of showing the cause of the delay is on the person seeking to revive the application.[7]

"[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."[8]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[9]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[10]

## PROCEDURAL HISTORY

An original petition pursuant to 37 C.F.R. § 1.181 was filed on March 5, 2009, where Petitioner indicated that the notice of October 31, 2008 was not received as it had been sent to the prior representative.

The original petition was dismissed via the mailing of a decision on March 30, 2009, which indicated, *in pertinent part*:

> "The record shows that Petitioner submitted a "POWER OF ATTORNEY and CHANGE OF CORRESPONDENCE ADDRESS FORM" on October 15, 2008 (hereinafter referred to as "the power of attorney form of October 15, 2008.") These requests were not effectuated however, as a statement under 37 C.F.R. § 3.73(b) was not concurrently submitted…
>
> As such, the power of attorney form of October 15, 2008 failed to comply with 37 C.F.R. §§ 1.33(a), (b)(3), and (b)(4). The form was **executed by an officer of the Assignee, however, the right of**

9 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
10 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

> **this Assignee to take action was not established** (emphasis included), pursuant to 37 C.F.R. § 3.73(b)(1). It follows that this request could not be effectuated, and as such, the Office properly refused entry of the same.
>
> Hence, the subsequently mailed notice of October 31, 2008 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a)."
>
> Decision on original petition pursuant to 37 C.F.R. § 1.181, page 4.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 6, 2009, which was dismissed via the mailing of a decision on April 22, 2009, which indicated, *in pertinent part*:

> "this application went abandoned for failure to respond to the notice of October 31, 2008, which was properly mailed to the correspondence address of record. This Office communication was not received however, due to Assignee's/Petitioner's filing error."
>
> Decision on renewed petition pursuant to 37 C.F.R. § 1.181, page 4.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on May 3, 2009, and was dismissed via the mailing of a decision on June 8, 2009, which indicated, *in pertinent part*:

> "The omission of a necessary component to effectuate both the Power of Attorney and the Change of Address requests may have constituted unintentional delay, but it does not rise to the level of unavoidable delay."
>
> Decision on original petition pursuant to 37 C.F.R. § 1.137(a), page 7 .

A renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 30, 2009, and was dismissed via the mailing of a decision on July 20, 2009, which indicated, *in pertinent part*:

> "this application went abandoned due to Petitioner's filing error - specifically, the statement under 37 C.F.R. § 3.73(b) was omitted from the filing of October 15, 2008"
>
> Decision on renewed petition pursuant to 37 C.F.R. § 1.137(a), pages 6-7.

## 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, 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.

The decision on the original petition pursuant to 37 C.F.R. § 1.137(a) indicated that the second requirement of Rule 1.137(a) has been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[11] With the renewed petition pursuant to 37 C.F.R. § 1.137(a), Petitioner included the issue and publication fees. As such, the first requirement of Rule 1.137(a) has been satisfied.

To date, requirements (1) and (2) of Rule 1.137(a) have been satisfied. The third requirement has not been satisfied, as will now be pointed out.

With this second renewed petition, Petitioner has indicated that subsequent to the mailing of the notice of October 31, 2008, and prior to the mailing of the notice of abandonment, the Office improperly accepted the Power of Attorney and Change of Correspondence Address which was submitted on October 15, 2008, despite the fact that it was not accompanied by a statement under 37 C.F.R. § 3.73(b).

The fact that the Office subsequently erred after mailing of the notice of October 31, 2008 is immaterial to the fact that Petitioner failed to properly effectuate the change of address. Had Petitioner included the required statement under 37 C.F.R. § 3.73(b), the Power of Attorney and Change of Correspondence Address which was submitted on October 15, 2008 would have been properly entered and made of record, and the notice of October 31, 2008 would have been mailed to the address which appears on the Power of Attorney and Change of Correspondence Address. But such is not the case. Petitioner failed to properly effectuate the change of address, and as such, the Office properly mailed the notice of October 31, 2008 to the Correspondence Address of record at that time: an address in Falls Church, Virginia.

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11 See Rule 1.137(d).

A reasonable and prudent person, acting in relation to his/her most important business, would have included the statement under 37 C.F.R. § 3.73(b) with the Power of Attorney and Change of Correspondence Address, so that the latter could be properly effectuated. It follows that the failure to include the former does not rise to the level of unavoidable delay.

## 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) and/or Petition Pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704. **Thereafter, there will be no further reconsideration of this matter**[12, 13].

It is noted that this decision marks the third time which Petitioner has been informed that the present set of facts does not give rise to unavoidable delay.[14] **Petitioner's only relief is a petition under 37 C.F.R. § 1.137(b), and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.**

As such, **in response to this decision, Petitioner should strongly consider filing either:**

- **a petition pursuant to Rule 1.137(b), or;**
- **both a petition pursuant to Rule 1.137(b) and a third renewed petition pursuant to Rule 1.137(a).**

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12 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.

13 If, on the third 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.

14 See decision on original petition pursuant to Rule 1.137(a), page 7 and the decision on the renewed petition pursuant to Rule 1.137(a), page 7.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[15] hand-delivery,[16] or facsimile.[17] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[18]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[19] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

15 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
16 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
17 (571) 273-8300- please note this is a central facsimile number.
18 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
19 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MAILED

JAN 12 2010

OFFICE OF PETITIONS

IPFortune LLC
1045 North Utah Street, Unit 502
Arlington VA 22201

| | | |
|---|---|---|
| In re Application of | : | |
| Cheng-Kuo Lin et al. | : | |
| Application No. 11/540,974 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | PURSUANT TO |
| Attorney Docket No.: MLin_001 | : | 37 C.F.R. § 1.137(B) |
| Title: ON-CHIP ESD PROTECTION | : | |
| CIRCUIT USING ENHANCEMENT-MODE | : | |
| HEMT/MESFET TECHNOLOGY | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 30, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on February 25, 2009.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on March 5, 2009, and was dismissed via the mailing of a decision on March 30, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 6, 2009, which was dismissed via the mailing of a decision on April 22, 2009.

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1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on May 3, 2009, and was dismissed via the mailing of a decision on June 8, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 30, 2009, and was dismissed via the mailing of a decision on July 20, 2009.

A second renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on July 28, 2009, and was dismissed via the mailing of a decision on October 28, 2009.

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 and the proper statement of unintentional delay. Both the issue and publication fees were preveniently submitted on June 30, 2009. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to

3 See Rule 1.137(d).

any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition 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 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.[4] 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

cc: Ruay L. Ho
IPFortune LLC
1629 K Street, N.W.
Suite 300
Washington, DC 20006

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MORRISON & FOERSTER, LLP**
**755 PAGE MILL ROAD**
**PALO ALTO, CA 94304-1018**

**COPY MAILED**

MAY 0 2 2008

**OFFICE OF PETITIONS**

In re Application of :
**LEE**, Chee Wee :
Application No. 11/540,995 :
Filed: September 29, 2006 :
Attorney Docket No. **L2005.0038/P038** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on October 1, 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: **STEPHEN A. SOFFEN**
**DICKSTEIN SHAPIRO LLP**
**1825 EYE STREET NW**
**WASHINGTON, DC 20006-5403**

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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AT&T LEGAL DEPARTMENT - MOAZZAM
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

**MAILED**

JUN 21 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Wei, et al. | : | |
| Application No. 11/541,031 | : | ON PETITION |
| Filed: September 28, 2006 | : | |
| Attorney Docket No. 2006-A0578;AT1-197 | | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 27, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 11, 2009. This Notice set a statutory period for reply of three months. No issue fee having been received on or before August 11, 2009, the application became abandoned on August 12, 2009. The Office mailed a Notice of Abandonment on September 3, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 07/26/2010

| | | |
|---|---|---|
| **Applicant** | : Anil M. Rao | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647025 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,036 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **748** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LEWIS BRISBOIS BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

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| | | |
|---|---|---|
| In re Application of | : | |
| Thomas A. Farmer | : | |
| Application No. 11/541,063 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 26609-3 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 2009.

The request is **APPROVED**.

The request was signed by David N. Makous on behalf of the practitioners of record who are associated with customer No. 33417.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 29, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thomas A. Farmer
1301 Motana Avenue, Suite D
Santa Monica, CA 90403

cc: Hepo Filters, Inc.
2510 Main Street
Santa Monica, CA 90405

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/541,063 | 09/29/2006 | Thomas A. Farmer | 26609-3 |

**CONFIRMATION NO. 1148**

**POWER OF ATTORNEY NOTICE**

33417
LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

*OC000000037608307*

Date Mailed: 09/03/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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 |
|---|---|---|---|
| 11/541,063 | 09/29/2006 | Thomas A. Farmer | 26609-3 |

**CONFIRMATION NO. 1148**

**POA ACCEPTANCE LETTER**

Thomas A. Farmer
1301 Motana Avenue
Suite D
Santa Monica, CA 90403

*OC000000037608310*

Date Mailed: 09/03/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO, CA 95014

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David A. Koski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7660749 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,071 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**MYERS DAWES ANDRAS & SHERMAN LLP**
**19900 MACARTHUR BOULEVARD, SUITE 1150**
**IRVINE, CA 92612**

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JAN 08 2009

In re Application of

Jesper E. EKLUND, et al.
Application No. 11/541,072
Filed: September 29, 2006
Attorney Docket No. **UC1.PAU.81**

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 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 Joseph C. Andras on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor Jesper E. Eklund at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the office action mailed September 4, 2008.

Inquiries regarding the examination or status of the application should be directed to the technology center at 571-272-2800.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JESPER E. EKLUND**
**1670 IOWA STREET**
**COSTA MESA, CA 92626**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Daniel L. Dawes**
**Myers, Dawes, Andras & Sherman, LLP**
**Suite 1150**
**19900 MacArthur Boulevard**
**Irvine, CA 92612**

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SEP 30 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| E. Jesper Eklund et al. | : | |
| Application No. 11/541,073 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. UC1.PAU.80 | : | 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. Andras, 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 to that of the inventor at the address of record. The address changed 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: E Jesper Eklund
1670 Iowa Street
Costa Mesa, CA 92626

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 |
|---|---|---|---|
| 11/541,073 | 09/29/2006 | E. Jesper Eklund | UC1.PAU.80 |

**CONFIRMATION NO. 1132**

**POWER OF ATTORNEY NOTICE**

Daniel L. Dawes
Myers Dawes Andras & Sherman LLP
Suite 1150
19900 MacArthur Boulevard
Irvine, CA 92612

*OC000000032312078*

Date Mailed: 09/30/2008

## 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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**RICHARD A. RYAN/ATTORNEY AT LAW**
**8497 N. MILLBROOK AVE, SUITE 101**
**FRESNO CA 93720**

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of

**HUTCHESON**, et al.
Application No. 11/541,104
Filed: September 29, 2006
Attorney Docket No. RAR 717.01

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition does not include the birth certificates of the inventors, attesting to their age as indicated by the petitioner.

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 the undersigned 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 1661 for action in its regular turn.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

**Fish & Richardson, P.C.**
**P.O. Box 1022**
**Minneapolis, MN 55440-1022**

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APR 23 2008

OFFICE OF PETITIONS

In re Application of

Janusz Kuzma
Application No. 11/541,117
Filed: September 29, 2006
Attorney Docket No. 23845-030001/40328-0113

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 19, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "ownership transfer . . . " does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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 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
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/04/2010

| | | |
|---|---|---|
| **Applicant** | : Chunfei Ye | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649265 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,124 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

DATE 9-12-07 APPLICATION NUMBER 11/541127

DOC CODE petsec DIPE DOC DATE 9/24/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

OIPE IAP66
JUN 20 2007
PATENT & TRADEMARK OFFICE

IFW

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Melvin et al.

Serial No.: 11/541,127

For: TAMPON APPLICATOR BARRELS HAVING GRIPPING STRUCTURES AND METHODS OF FORMING

Filed: September 29, 2006

Examiner: Not Yet Assigned

Art Unit: Not Yet Assigned

Confirmation No.: 2869

Customer No.: 67519 Attorney Docket: 460.2274USV

**Mail Stop Petitions**
**COMMISSIONER FOR PATENTS**
**P.O. Box 1450**
**Alexandria, VA 22313-1450**

Dear Sir:

## TRANSMITTAL OF NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

Transmitted herewith are the following documents pertaining to the above-identified application:

__ Copy of Declaration and Power of Attorney form executed by _____;

__ The undersigned attorney verifies that the applicant is entitlted to a Small Entity Status;

__ Specification consisting of ____ pages ____ pages description, ____ pages claims);

X 4 "New Sheets" of Drawings;

X Amendment;

__ An Assignment of the Invention to : _____, including $40.00 recordation fee and Assignment Recordation Cover Sheet;

__ A Certified Copy of the Priority Application;

X Petition under 37 CFR §1.57(a) to Add Inadvertently Omitted Matter and fee required by CFR §1.17(f);

__ Information Disclosure Statement (Form - 1449); and

__ A copy of the Notice of Incomplete Nonprovisional Application.

___ Petition and Fee for Extension of Time (37 CFR 1.136(A)).

The Filing Fee is calculated below.

| CLAIMS AS FILED | | | | |
|---|---|---|---|---|
| (1) For | (2) Number Filed | (3) Number Extra | (4) Rate | (5) Basic Fee **$300.00** |
| Total Claims | – 20 = | 0 | x $50.00 | $ |
| Independent Claims | - 3 = | 0 | x $200.00 | $ |
| Multiple Dependent Claim Fee | | | | x $360.00 = $0.00 |
| **SEARCH FEE** | | | | **$500.00** |
| **EXAMINATION FEE** | | | | **$200.00** |
| **NATIONAL STAGE APPLICATION SIZE FEE ($250 FOR EACH ADDITIONAL 50 SHEETS OVER 100 SHEETS)** | | | | $ |
| **TOTAL FILING FEE** | | | | **$PAID** |
| 1/2 FILING FEE FOR SMALL ENTITY | | | | $ |

___ A check in the amount of $_____ to cover the filing fee is enclosed.

X The Commissioner is hereby authorized to charge of $400.00 (fee required by C.F.R §1.17(f)), any additional fees under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to
**Deposit Account No. 162-127 in the name of Playtex Products, Inc.** The Commissioner is hereby authorized to charge any additional fees, if needed to Deposit Account No.: 01-0467. A duplicate copy of this Form is enclosed.

June 15, 2007
Date

Charles N.J. Ruggiero
Registration No. 28,468
Attorney for Applicant(s)
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
Telephone: (203) 327-4500
Telefax: (203) 327-6401

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Certificate No. **EV925821845US,** service under 37 CFR §1.10 and is addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 15, 2007.

Suzanne Lombardo
NAME.

SIGNATURE

06/15/07
DATE

**UNITED STATES PATENT & TRADEMARK OFFICE**
**Washington, D.C. 20231**

## REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/10/07

2 Serial/Patent # 11/541127

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
|---|---|---|---|---|
| | Filing | | | $ |
| | Amendment | | | $ |
| | Extension of Time | | | $ |
| | Notice of Appeal/Appeal | | | $ |
| X | Petition | ifw | 06/20/07 | $ 800.00 |
| | Issue | | | $ |
| | Cert of Correction/Terminal Disc. | | | $ |
| | Maintenance | | | $ |
| | Assignment | | | $ |
| | Other | | | $ |

7 TOTAL AMOUNT OF REFUND $ 800.00

8 TO BE REFUNDED BY:

| | |
|---|---|
| | Treasury Check |
| | Credit Deposit A/C #: |

9 0 1 -- 0 4 6 7

10 REASON:

| | |
|---|---|
| | Overpayment |
| X | Duplicate Payment |
| X | No Fee Due (Explanation): |

pto error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: ALESIA M. BROWN TITLE: ATTY

SIGNATURE: /ALESIA M. BROWN/ PHONE: 23205

OFFICE: OP

**********

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 9/26/07

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

**Office of Finance**
**Refund Branch**
**Crystal Park One, Room 802B**

FORM PTO 1577
(01/90)

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CHARLES N.J. RUGGIERO
OHLANDT, GREENLEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901-2682

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SEP 24 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Melvin, et al. | : | |
| Filed: September 29, 2006 | : | ON PETITION |
| Application No. 11/541,127 | : | |
| Atty. Dkt. No.: 460.2274USV | : | |

This decision in response to the petition under 37 CFR 1.57(a), filed June 15, 2007, to accord the instant application a filing date of September 29, 2006. This matter is, *sua sponte*, properly treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of September 29, 2007.

The application was received September 29, 2006. The Notice of Incomplete Nonprovisional Application (Notice) mailed April 17, 2007 indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings, as required per 35 USC 113.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee). The Notice set a two month non-extendible period of time for reply.

**DECISION UNDER 37 CFR 1.53(e)**

In accordance with 37 CFR 1.53(e)(2), any request for review of a notification pursuant to 37 CFR 1.53(e)(1), or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a

drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of September 29, 2006.

Thus, the instant petition is unnecessary as the instant application was otherwise entitled to a filing date under 37 CFR 1.53(b). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on September 29, 2006, without drawings as part of the original disclosure.

In view thereof, the petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of September 29, 2006 is hereby **GRANTED**.

## DECISION UNDER 37 CFR 1.57

The provisions of 37 CFR 1.57(a) provide that "if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the

claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s)."

In accordance with 37 CFR 1.57(a)(3), "[i]f 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)."

As the instant application is entitled to a filing date, petition under 37 CFR 1.57 is not necessary.

Accordingly, the petition under 37 CFR 1.57(a) is hereby **DISMISSED AS MOOT**.

The amendment concerning the drawings submitted with the instant petition will be addressed in due course by the examiner of record in accordance with 37 CFR 1.57(a)(1).

No fee is due in connection with this matter. The petition fees submitted in connection with this matter will be refunded in due course.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 29, 2006 using only those application papers present on that date.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Charles Pearson
Director
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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OLYMPIC PATENT WORKS PLLC
P.O. BOX 4277
SEATTLE WA 98194-0277

3/20/09

*In re* Application of:
SARGEN, JAMES P. et al.
Serial No.: 11/541,141
Filed: Sep. 29, 2006
Docket: 35067.003
Title: MULTIPLE-PERSON ELLIPTICAL TRAINER

DECISION ON PETITION TO REVIEW ACTION (REVIEW OF ELECTION OF SPECIES REQUIREMENT)

This is a decision on the petition filed on March 12, 2009 by which in essence petitioner requests review and withdrawal of election of species requirement mailed on July 25, 2008. This petition is considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is DISMISSED AS PREMATURE.

The record shows that:

On July 25, 2008, the examiner issued an election of species requirement under MPEP § 803, 806.04, 806.04(f) and (h). In election of species requirement, the analysis of independent or distinct inventions or species under MPEP § 806.05-806.06 is not required. In response, on August 28, 2008, the applicant elected with traverse Species I, Figs. 1-9 without specifying a list of claims readable on the elected species as required in the election of species requirement. On December 10, 2008, the examiner mailed a non-responsive Office action and asked the applicant to provide a list of claims that are readable on the elected species I, Figs. 1-9. On March 12, 2009, the applicant filed a response to the examiner's Office action of December 10, 2008. On March 12, 2009, the applicant filed the current petition to review the election of species requirement. Petitioner argues that the election of species requirement was improperly issued. In particular, petitioner argues in essence that the examiner failed to explain why the application contains independent or distinct claims to each of the inventions among which restriction is required, reasons and examples to support the restricted inventions are independent or distinct, the grouping and identification of the Species as illustrated and illustration that species containing mutually exclusive characteristics of different species.

A review of the record reveals that on July 25, 2008, the examiner issued an election of species requirement. In the restriction requirement, the examiner stated in the Office action that six species listed are mutually exclusive. In the petition, petitioner disagrees with the examiner's

election of species requirement for various reasons as stated in the petition. Since the examiner did not have a chance to answer the questions raised by petitioner and repeat the restriction of the Office Action of July 25, 2008, then, the petition is hereby dismissed as premature in accordance with 37 CFR 1.181(c)[1] and (37 CFR 1.144[2]).

For the reasons outlined above, petitioner's request to withdraw the election of species requirement is premature and cannot be granted. However, the examiner has been directed in the next Office action to fully answer the applicant's arguments raised in the petition.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3764 for consideration of the applicant's response filed on March 12, 2009. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED AS PREMATURE.

Donald T. Hajec, Director
Technology Center 3700

[1] 37 CFR 1.181(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
[2] § 1.144 Petition from requirement for restriction: 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).

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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LARRY F. GITLIN
RAPKIN & GITLIN
SUITE 1620
21650 OXNARD STREET
WOODLAND HILLS CA 91367

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MAR 09 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Belli | : | |
| Application No. 11/541,143 | : | DECISION |
| Filed/Deposited: 2 October, 2006 | : | |
| Attorney Docket No. G-3678 | : | |

This is a decision on the petition filed on 27 January, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

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. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may 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).

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c )(I).

*For reference: Petitioners' attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c )(I)—and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)*

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 29 September, 2008, with reply due under a non-extendable deadline on or before 29 December, 2008.

The application went abandoned by operation of law after midnight 29 December, 2008.

The Office mailed a Notice of Abandonment on 23 January, 2009.

On 27 January, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of the averment as non-receipt of the Notice of Allowance/Allowability and Fees Due. Petitioner's statement and documentary showings do not comply with requirements described above. (Petitioner appears to provide a docket sheet for the instant application, however it is not clear that it provides a complete history of the application prosecution, and there is no due-date calendar/docket for the firm as required. Moreover, Petitioner's statement fails to move stepwise through the requirements set for in the guidance in the Commentary at MPEP §711.03(c )(I)). To this end, Petitioner's attention is directed to the guidance in the Commentary at MPEP §711.03(c )(I)) generally to satisfy the mandated showings pursuant to 37 C.F.R. §1.181:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket

> or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Thus, as indicated earlier in this decision (see the italicized discussion immediately before the BACKGROUND and with more particularity the excerpt from the MPEP, above), the guidance in the Commentary at MPEP §711.03(c )(I)) sets forth a particular set of statements (e.g., docketing system sufficiently reliable) and documents (e.g., due-date calendar/due-date docket for the firm) that must be provided by Petitioner to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. This Petitioner has failed to do.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

---

[1] *See*: MPEP §711.03(c ) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

## CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**.

## ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )

*A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)*

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

# NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 09/29/2008

Larry F. Gitlin
RAPKIN & GITLIN
Suite 1620
21650 Oxnard Street
Woodland Hills, CA 91367

| EXAMINER | |
|---|---|
| LOCKETT, KIMBERLY R | |
| ART UNIT | PAPER NUMBER |
| 2837 | |

DATE MAILED: 09/29/2008

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,143 | 10/02/2006 | Remo D. Belli | G-3678 | 3071 |

TITLE OF INVENTION: PITCH MODULATOR DRUM

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | $720 | $300 | $0 | $1020 | 12/29/2008 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**



PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

# PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail** **Mail Stop ISSUE FEE**
**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, Virginia 22313-1450**
**or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/29/2008

Larry F. Gitlin
RAPKIN & GITLIN
Suite 1620
21650 Oxnard Street
Woodland Hills, CA 91367

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,143 | 10/02/2006 | Remo D. Belli | G-3678 | 3071 |

TITLE OF INVENTION: PITCH MODULATOR DRUM

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | $720 | $300 | $0 | $1020 | 12/29/2008 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| LOCKETT, KIMBERLY R | 2837 | 084-41100R |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____
2_____
3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,143 | 10/02/2006 | Remo D. Belli | G-3678 | 3071 |

7590 09/29/2008

| EXAMINER |
|---|
| LOCKETT, KIMBERLY R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2837 | |

DATE MAILED: 09/29/2008

Larry F. Gitlin
RAPKIN & GITLIN
Suite 1620
21650 Oxnard Street
Woodland Hills, CA 91367

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 302 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 302 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.



PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

| Notice of Allowability | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/541,143 | BELLI, REMO D. | |
| | Examiner | Art Unit | |
| | KIMBERLY R. LOCKETT | 2837 | |

***-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--***

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.

2. ☒ The allowed claim(s) is/are *1-14*.

3. ☐ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   **Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Kim R. Lockett/
Primary Examiner, Art Unit 2837

***Allowable Subject Matter***

1. Claims 1-14 are allowed.

2. The following is an examiner's statement of reasons for allowance: The claims are allowable over the prior art for at least the reason that the prior art fails to teach or suggest the specifics elements, element function, and physical interconnections of the drum as set forth in the claimed combination for example: the cover in relation to the threaded resonant member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Volpp discloses the use of a drum system.

4. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC) whose telephone number is 800-786-9199**. Assistance is also available on the Internet at www.uspto.gov.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett whose telephone number is (571) 272-2067.** The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227.

/Kim R. Lockett/

Primary Examiner, Art Unit 2837

| Notice of References Cited | Application/Control No. 11/541,143 | Applicant(s)/Patent Under Reexamination BELLI, REMO D. | |
|---|---|---|---|
| | Examiner KIMBERLY R. LOCKETT | Art Unit 2837 | Page 1 of 1 |

**U.S. PATENT DOCUMENTS**

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|---|---|---|---|
| * | A | US-5,606,142 | 02-1997 | Volpp, Steven | 84/411R |
| | B | US- | | | |
| | C | US- | | | |
| | D | US- | | | |
| | E | US- | | | |
| | F | US- | | | |
| | G | US- | | | |
| | H | US- | | | |
| | I | US- | | | |
| | J | US- | | | |
| | K | US- | | | |
| | L | US- | | | |
| | M | US- | | | |

**FOREIGN PATENT DOCUMENTS**

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
|---|---|---|---|---|---|---|
| | N | | | | | |
| | O | | | | | |
| | P | | | | | |
| | Q | | | | | |
| | R | | | | | |
| | S | | | | | |
| | T | | | | | |

**NON-PATENT DOCUMENTS**

| * | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
|---|---|---|
| | U | |
| | V | |
| | W | |
| | X | |

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LARRY F. GITLIN
RAPKIN & GITLIN
SUITE 1620
21650 OXNARD STREET
WOODLAND HILLS CA 91367

COPY MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of
Belli
Application No. 11/541,143
Filed/Deposited: 2 October, 2006
Attorney Docket No. G-3678

DECISION

This is a decision on the petition filed on 22 April, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

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. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may 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).

As to the Request to Withdraw
the Holding of Abandonment

Once again Petitioner's attention is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

As was set forth expressly at the end of the 9 March, 2009, decision, Petitioner is reminded that all transactions before the Office are in writing (see: 37 C.F.R. §1.2[1]) and no telephone conversations might be alleged to be the basis for any action taken by Petitioner in this or any other matter.

Therefore, Petitioner's averments in the 22 April 2009, petition to any conversations and/or discussions with, or "reasons for the [9 March, 2009] decision," "guidance," and "recommendation" from the undersigned are—at best—wholly inappropriate and inaccurate.

Once again, despite presentation by the Office to Petitioner of the express provisions of the pertinent section of the guidance in the Commentary at MPEP §711.03(c )(I), Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c )(I).

*Once again for reference:*

*Petitioners' attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c )(I)—and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)*

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 29 September, 2008, with reply due under a non-extendable deadline on or before 29 December, 2008.

The application went abandoned by operation of law after midnight 29 December, 2008.

The Office mailed a Notice of Abandonment on 23 January, 2009.

---

[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.

On 27 January, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of the averment as non-receipt of the Notice of Allowance/Allowability and Fees Due. Petitioner's statement and documentary showings do not comply with requirements described above. (Petitioner appears to provide a docket sheet for the instant application, however it is not clear that it provides a complete history of the application prosecution, and there is no due-date calendar/docket for the firm as required. Moreover, Petitioner's statement fails to move stepwise through the requirements set for in the guidance in the Commentary at MPEP §711.03(c )(I)). Because Petitioner failed to satisfy the requirements expressly set forth in that guidance, the petition was dismissed on 9 March, 2009—and, further, in that decision Petitioner was expressly:

- directed in writing to follow the guidance in the Commentary at MPEP §711.03(c )(I)); and

- reminded in writing that all transactions before the Office were in writing (see: 37 C.F.R. §1.2[2]) and no telephone conversations may be alleged to be the basis for any action taken by Petitioner in this or any other matter.

Petitioner filed a petition on 22 April, 2009, again seeking relief pursuant to 37 C.F.R. §1.181. From the very outset of that petition—and in conflict with the regulations at 37 C.F.R. §1.2[3]—Petitioner repeatedly referred to a telephone conversation to which Petitioner appears not even to have been party. Thereafter, while Petitioner provided what was averred to be the equivalent of the transaction docket sheet for the instant application, review of that document evidences that it clearly is incomplete—and therefore lacks value as to accuracy and reliability—because, *inter alia*, neither the receipt of the 27 October, 2006, Notice of Missing Parts nor the 4 December, 2006, response thereto appear on that document. Therefore, the absence of any other transaction from that docket sheet is meaningless. Moreover, the calendar presented as reflective of the due date calendar for the reply to the Notice of Allowance/Allowability and Fees Due is that only for Petitioner—and while Petitioner states that his office of "Rapkin Gitlin & Beaumont ("RGB") is a partnership in name only," the facts as recited by Petitioner indicate that mail "is received by the firm and delivered to the reception area of the office suite"—and there sorted for further delivery to Petitioner and his partners. Therefore, it nonetheless is foreseeable, possible and likely that mail may be mis-sorted and mis-delivered to a partner other than Petitioner. Because the condition that an article of mail may be mis-directed to a person or file other than that for whom/which it was intended certainly is true in any law firm, it is for that reason that the Office

---

[2] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

[3] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

requires under the express guidance at MPEP §711.03(c )(I)) that a copy of the due date docket record for the entire firm be submitted in these matters. In this context this requirement applies to Rapkin, to Gitlin and to Beaumont. And this Petitioner has failed to do. Further, Petitioner failed to follow the statement requirements under the rule as to, *inter alia*: non-receipt at the correspondence address of record; search and non-discovery; and statement of sufficient reliability of docketing system.

Again to this end, Petitioner's attention is directed to the guidance in the Commentary at MPEP §711.03(c )(I)) generally to satisfy the mandated showings pursuant to 37 C.F.R. §1.181:

***

> 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.[4]

***

Thus, as indicated earlier in this decision (see the discussion immediately before and within the BACKGROUND and with more particularity the excerpt from the MPEP, above), the guidance in the Commentary at MPEP §711.03(c )(I)) sets forth a particular set of statements (e.g., docketing system sufficiently reliable) and documents (e.g., due-date calendar/due-date docket for the firm) that must be provided by Petitioner to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. This Petitioner has failed to do.

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[4] *See*: MPEP §711.03(c ) (I)(A).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[5]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

### Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

## CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**.

## ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )

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[5] 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).

*A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)*

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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[6]) 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

[6] 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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LARRY F. GITLIN
RAPKIN & GITLIN
SUITE 1620
21650 OXNARD STREET
WOODLAND HILLS CA 91367

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OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Belli | : | |
| Application No. 11/541,143 | : | DECISION |
| Filed/Deposited: 2 October, 2006 | : | |
| Attorney Docket No. G-3678 | : | |

This is a decision on the petition filed on 10 July, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

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. §1.181 to Withdraw the Holding of Abandonment."

*In the alternative, Petitioner may 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).*

As to the Request to Withdraw
the Holding of Abandonment

Once again Petitioner's attention is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c )(I).

Petitioner's attention is directed to the guidance set forth in the Commentary at MPEP §711.03(c )(I)—and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket.

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 29 September, 2008, with reply due under a non-extendable deadline on or before 29 December, 2008.

The application went abandoned by operation of law after midnight 29 December, 2008.

The Office mailed a Notice of Abandonment on 23 January, 2009.

On 27 January, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of the averment as non-receipt of the Notice of Allowance/Allowability and Fees Due. Petitioner's statement and documentary showings do not comply with requirements described above. (Petitioner appears to provide a docket sheet for the instant application, however it is not clear that it provides a complete history of the application prosecution, and there is no due-date calendar/docket for the firm as required. Moreover, Petitioner's statement fails to move stepwise through the requirements set for in the guidance in the Commentary at MPEP §711.03(c )(I)). Because Petitioner failed to satisfy the requirements expressly set forth in that guidance, the petition was dismissed on 9 March, 2009—and, further, in that decision Petitioner was expressly:

- directed in writing to follow the guidance in the Commentary at MPEP §711.03(c )(I)); and

- reminded in writing that all transactions before the Office were in writing (see: 37 C.F.R. §1.2[1]) and no telephone conversations may be alleged to be the basis for any action taken by Petitioner in this or any other matter.

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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.

Petitioner filed a petition on 22 April, 2009, again seeking relief pursuant to 37 C.F.R. §1.181. From the outset of the petition—and in conflict with the regulations at 37 C.F.R. §1.2—Petitioner repeatedly referred to a telephone conversation—a conversation to which Petitioner was not even a party. Thereafter, while Petitioner provided what was averred to be the equivalent of the transaction docket sheet for the instant application, review of that document evidenced that it was incomplete—and, thus, lacked value as to accuracy and reliability—because, *inter alia*, neither the receipt of the 27 October, 2006, Notice of Missing Parts nor the 4 December, 2006, response thereto appear on that document. Therefore, the absence of other transactions from that docket sheet was meaningless. The calendar presented as reflective of the due date calendar for the reply to the Notice of Allowance/Allowability and Fees Due was only for Petitioner—and while Petitioner states that his office of "Rapkin Gitlin & Beaumont ("RGB") is a partnership in name only," the facts as recited by Petitioner indicate that mail "is received by the firm and delivered to the reception area of the office suite"—and there sorted for further delivery to Petitioner and his "partners." Therefore, it also was foreseeable, possible and likely that mail was mis-sorted/mis-delivered to a "partner" other than Petitioner. Because the condition that an article of mail may be mis-directed to a person or file other than that for whom/which it was intended certainly is true in any law office(s), it is for that reason that the Office requires under the express guidance at MPEP §711.03(c )(I)) that a copy of the due date docket record for the <u>entire firm</u> be submitted in these matters. In this context this requirement applies to Rapkin, to Gitlin and to Beaumont. And this Petitioner failed to do. Further, Petitioner failed to follow the statement requirements under the rule as to, *inter alia*: non-receipt at the correspondence address of record; search and non-discovery; and statement of sufficient reliability of docketing system. The petition was dismissed on 26 May, 2009.

On 10 July, 2009, Petitioner renewed the petition and provided statements as to non-receipt at the correspondence address, search and non-discovery, description of the docketing system and as to reliability. Petitioner also provided copies of additional calendars as to those persons/partners with whom he shares office space. Problematically, however, are that:

- Petitioner describes a system involving two other persons—i.e., the unnamed person who sorts mail received at the shared office space and his paralegal Roxanne B. Rogers (Ms. Rogers), and no statements were included from those persons; and

- The underlying deficiency in Petitioner's docket materials of the 27 October, 2006, Notice of Missing Parts nor the 4 December, 2006, response thereto demonstrate that Petitioner's docket record in this matter cannot be relied upon—that fundamental flaw appears to make it impossible for Petitioner to make the showing required under the rule and in the context of the guidance set forth in the Commentary at MPEP §711.03(c )(I)).

Clearly Petitioner's attention always is directed to the guidance in the Commentary at MPEP §711.03(c )(I))in order to satisfy the mandated showings pursuant to 37 C.F.R. §1.181:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

***

Thus, as indicated earlier in this decision (see the discussion immediately before and within the BACKGROUND and with more particularity the excerpt from the MPEP, above), the guidance in the Commentary at MPEP §711.03(c )(I)) sets forth a particular set of statements (e.g., docketing system sufficiently reliable) and documents (e.g., due-date calendar/due-date docket for the firm) that must be provided by Petitioner to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. This Petitioner has failed to do.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[2] *See*: MPEP §711.03(c ) (I)(A).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

### Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

## CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**.

## ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )

*A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)*

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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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OFFICE OF PETITIONS

LARRY F. GITLIN
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SUITE 1620
21650 OXNARD STREET
WOODLAND HILLS CA 91367

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| In re Application of | : | |
| Belli | : | |
| Application No. 11/541,143 | : | DECISION |
| Filed/Deposited: 2 October, 2006 | : | |
| Attorney Docket No. G-3678 | : | |

This is a decision on the petition filed on 2 November, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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 Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 29 September, 2008, with reply due under a non-extendable deadline on or before 29 December, 2008.

The application went abandoned by operation of law after midnight 29 December, 2008.

The Office mailed a Notice of Abandonment on 23 January, 2009.

On 27 January, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of the averment as non-receipt of the Notice of Allowance/Allowability and Fees Due. Petitioner's statement and documentary showings do not comply with requirements described above. (Petitioner appears to provide a docket sheet for the instant application, however it is not clear that it provides a complete history of the application prosecution, and there is no due-date calendar/docket for the firm as required. Moreover, Petitioner's statement fails to move stepwise through the requirements set for in the guidance in the Commentary at MPEP §711.03(c )(I)). Because Petitioner failed to satisfy the requirements expressly set forth in that guidance, the petition was dismissed on 9 March, 2009—and, further, in that decision Petitioner was expressly:

- directed in writing to follow the guidance in the Commentary at MPEP §711.03(c )(I)); and

- reminded in writing that all transactions before the Office were in writing (see: 37 C.F.R. §1.2[1]) and no telephone conversations may be alleged to be the basis for any action taken by Petitioner in this or any other matter.

Petitioner filed a petition on 22 April, 2009, again seeking relief pursuant to 37 C.F.R. §1.181. From the outset of the petition—and in conflict with the regulations at 37 C.F.R. §1.2—Petitioner repeatedly referred to a telephone conversation—a conversation to which Petitioner was not even a party. Thereafter, while Petitioner provided what was averred to be the equivalent of the transaction docket sheet for the instant application, review of that document evidenced that it was incomplete—and, thus, lacked value as to accuracy and reliability—because, *inter alia*, neither the receipt of the 27 October, 2006, Notice of Missing Parts nor the 4 December, 2006, response thereto appear on that document. Therefore, the absence of other transactions from that docket sheet was meaningless. The calendar presented as reflective of the due date calendar for the reply to the Notice of Allowance/Allowability and Fees Due was only for Petitioner—and while Petitioner states that his office of "Rapkin Gitlin & Beaumont ("RGB") is a partnership in name only," the facts as recited by Petitioner indicate that mail "is received by the firm and delivered to the reception area of the office suite"—and there sorted for further delivery to Petitioner and his "partners." Therefore, it also was foreseeable, possible and likely that mail was mis-sorted/mis-delivered to a "partner" other than Petitioner. Because the condition that an article of mail may be mis-directed to a person or file other than that for whom/which it was intended certainly is true in any law office(s), it is for that reason that the Office requires under

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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.

the express guidance at MPEP §711.03(c )(I)) that a copy of the due date docket record for the entire firm be submitted in these matters. In this context this requirement applies to Rapkin, to Gitlin and to Beaumont. And this Petitioner failed to do. Further, Petitioner failed to follow the statement requirements under the rule as to, *inter alia*: non-receipt at the correspondence address of record; search and non-discovery; and statement of sufficient reliability of docketing system. The petition was dismissed on 26 May, 2009.

On 10 July, 2009, Petitioner renewed the petition and provided statements as to non-receipt at the correspondence address, search and non-discovery, description of the docketing system and as to reliability. Petitioner also provided copies of additional calendars as to those persons/partners with whom he shares office space. Problematically, however, were that:

- Petitioner described a system involving two other persons—i.e., the unnamed person who sorts mail received at the shared office space and his paralegal Roxanne B. Rogers (Ms. Rogers), and no statements were included from those persons; and

- The underlying deficiency in Petitioner's docket materials of the 27 October, 2006, Notice of Missing Parts nor the 4 December, 2006, response thereto demonstrate that Petitioner's docket record in this matter cannot be relied upon—that fundamental flaw appears to make it impossible for Petitioner to make the showing required under the rule and in the context of the guidance set forth in the Commentary at MPEP §711.03(c )(I)).

The petition was dismissed on 11 September, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made the statement of unintentional delay.

**Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c )(II).**

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.[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).

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

### 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.

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[3] 35 U.S.C. §133 provides:
**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an 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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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**HELLER EHRMAN LLP**
**4350 La Jolla Village Drive, 7th Floor**
**San Diego, CA 92122**

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SEP 24 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Vanessa Hsei, et al. | : | |
| Application No. 11/541,145 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 39766-0092C2 | : | FROM RECORD |
| | : | |

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 6, 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. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Notice of Allowance and Fee(s) letter mailed July 28, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Vanessa Hsei**
**1 DNA Way**
**South San Francisco, CA 94080**

cc: **Goodwin Procter LLP**
**Attn: Patent Administrator**
**135 Commonwealth Drive**
**Menlo Park, CA 94025-1105**

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 |
|---|---|---|---|
| 11/541,145 | 09/28/2006 | Vanessa Hsei | 39766-0092C2 |

**CONFIRMATION NO. 3885**

**POWER OF ATTORNEY NOTICE**

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

*OC000000032233236*

Date Mailed: 09/23/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2008.

- 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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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Brian Rigney | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7633706 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,155 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **747** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lancaster, et al. | : | |
| Application No. 11/541,165 | : | DECISION DISMISSING |
| Filed: September 28, 2006 | : | PETITION |
| Attorney Docket No.:578322000300 | : | |

This is a decision on the petition under 37 CFR 1.182, filed December 22, 2006, and in supplement on January 25, 2007.

The petition is **dismissed.**

The above-identified application was filed on September 28, 2006. However, on October 25, 2006, the Office of Initial Patent Examination mailed a A Notice to File Missing Parts of Nonprovisional Application, stating that application had been accorded a filing date of September 28, 2006, and advising applicant Figures 26B and 26C as described in the specification appeared to be omitted. As to the alleged omitted figure, the notice set forth an extendable period of reply of two months from its mailing date.

In response, on December 22, 2006, applicant filed the present petition and remitted a $400.00 petition fee. Applicant explains that Figures 26B and 26C were not omitted on September 28, 2006. Applicant further explains that the drawings were mislabeled, but complete as filed on September 28, 2006.

It is obvious from the petition that no drawings were actually missing on September 28, 2006. Rather, the drawings were simply 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 26B and 26C 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 September 28, 2006, using the drawings filed on that date. Thereafter, the application file will be forwarded to Technology Center 1600, GAU 1634 for consideration of the preliminary amendment filed January 25, 2007.

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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**755 Page Mill Road**
**Palo Alto, CA 94304-1018**

| | | |
|---|---|---|
| In re Application of | : | |
| Johnathan M. Lancaster, et al. | : | |
| Application No. 11/541,165 | : | DECISION ON PETITION |
| Filed: September 28, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 578322000300 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 3, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Michael Best & Friedrich LLP**
**100 East Wisconsin Avenue**
**Suite 3300**
**Milwaukee, WI 53202**

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BAYTOWN, TX 77522-2149

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| | | |
|---|---|---|
| In re Application of | : | |
| Peijun Jiang, et al. | : | DECISION ON PETITION |
| Application No. 11/541,185 | : | UNDER 37 CFR 1.78(a)(3) AND |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. 2006EM122 | : | |

This is a decision on the petition, filed July 24, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 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 the undersigned at (571) 272-3204. 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 1796 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

**ATTACHMENT** : Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/541,185 | 09/29/2006 | 1796 | 2950 | 2006EM122 | 36 | 7 |

**CONFIRMATION NO. 1715**

**CORRECTED FILING RECEIPT**

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

*OC000000038539809*

Date Mailed: 10/30/2009

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)**

Peijun Jiang, League City, TX;
Patrick Brant, Seabrook, TX;
David Aaron Henning, Ponca City, OK;
David R. Johnsrud, Humble, TX;
Charles L. Sims, Houston, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number 23455

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/687,508 10/15/2003 PAT 7,294,681
which claims benefit of 60/418,482 10/15/2002
and claims benefit of 60/460,714 04/04/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/24/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/541,185**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Propylene copolymers for adhesive applications

**Preliminary Class**

525

## 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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**FOLEY & LARDNER LLP**
**975 PAGE MILL ROAD**
**PALO ALTO CA 94304**

In re Application of

**SEMKO,** Christopher M. et al.
Application No. 11/541,205
Filed: September 28, 2006
Attorney Docket No. **342837-4051**

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 14, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Antoinette Konski on behalf of all attorneys of record who are associated with customer No. 38706. All attorneys/agents associated with the Customer Number 38706 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Christopher Semko at the address indicated below. There is an outstanding Office action mailed August 11, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CHRISTOPHER M. SEMKO**
**4993 NORRIS ROAD**
**FREEMONT CA 94536**

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**WEI JIANG**
**SUITE 108**
**10435 BURNET ROAD**
**AUSTIN, TX 78758**

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| | | |
|---|---|---|
| In re Application of | : | |
| Jiang et al. | : | |
| Application No. 11/541,239 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Title: Apparatus and Method for Switching, Modulation and Dynamic Control of Light Transmission Using Photonic Crystals | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2883 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

| | | |
|---|---|---|
| **Applicant** | : Kenneth Danehorn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641615 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,264 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sebastien Hily | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603527 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,364 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : 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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**IBM CORPORATION, T.J. WATSON RESEARCH CENTER**
**P.O. BOX 218**
**YORKTOWN HEIGHTS, NY 10598**

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| | | |
|---|---|---|
| In re Application of | : | |
| Wang et al. | : | |
| Application No. 10/541,368 | : | ON PETITION |
| Filed: July 24, 2006 | : | |
| Attorney Docket No. CN920020015US1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704

The application became abandoned for failure to reply in a timely manner to the Pre-Interview Communication mailed, November 18, 2008, which set a period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the application became abandoned on December 19, 2008. A Notice of Abandonment was mailed October 16, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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)(A)(1) and (G).

The petition lacks item (1), the required reply. The petitioner did not submit a reply in regards to the Office action, mailed November 18, 2008. Accordingly, this application cannot be revived until a proper response is filed.

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 2161 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: MICHAEL BUCHENHORNER
MICHAEL BUCHENHORNER, PA
8540 SW 83RD STREET
MIAMI, FL 33143

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VARIAN SEMICONDUCTOR EQUIPMENT ASSC., INC.
35 DORY RD.
GLOUCESTER, MA 01930-2297

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Atul Gupta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7642529 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,373 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,395 | 09/29/2006 | Hee Suk Pang | 24622-0025001 | 9208 |

26181 7590 06/01/2009
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| JACKSON, JAKIEDA R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/01/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,395 | : | PARTICIPATE IN PATENT |
| Filed: October 2, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No.: 24622-0025001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 16, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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. |
|---|---|---|---|---|
| 11/541,397 | 09/29/2006 | Hee Suk Pang | 24622-0024001 | 9032 |

26181 7590 06/01/2009
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| ARMSTRONG, ANGELA A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/01/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,397 | : | PARTICIPATE IN PATENT |
| Filed: October 2, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0024001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 16, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 3 above in that the amended claim 12 filed in the Preliminary Amendment on April 16, 2009 in this instant case is not sufficiently correspond to claim 12 of KIPO application 10-2008-7007452.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any response must be submitted via EFS-web.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

_/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,397 | 09/29/2006 | Hee Suk Pang | 24622-0024001 | 9032 |

26181 7590 01/19/2010
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| VO, HUYEN X |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/19/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,397 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **24622-0024001** | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 1, 2009, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are dismissed as moot as the examination of the above-identified application has begun. A Request for Continued Examination was filed December 29, 2009.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

_/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20100223

**DATE** : February 23, 2010

**TO SPE OF** : ART UNIT 2826

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7557426

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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.g

Date Mailed: August 28, 2009
Patent No. :7,441,955 B2
Ser. No. :11/541440
Issued :October 28, 2008
Inventor(s) :Jean-Louis Guyonnet, et al.
Title : RADIO-TRANSPARENT REAL-TIME DOSIMETER FOR INTERVENTIONAL RADIOLOGICAL PROCEDURES

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, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request in this matter is hereby denied.
The remaining errors noted in your request are being reviewed by the examiners.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Marshall, Gerstein & Borun LLP
233 S. Wacker Dr., Ste 6300
Sears Tower
Chicago, IL 60606-6357

MD/mt

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

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS TX 75252

MAILED

JUL 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Duch, et al. | : | |
| Application No. 11/541,443 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. QIM 2006 VJ 32748 US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 17, 2008. Accordingly, the date of abandonment of this application is February 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

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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**PERKINS COIE LLP**
**PATENT –SEA**
**P.O. BOX1247**
**SEATTLE, WA 98111-1247**

COPY MAILED

AUG 27 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Rory RAWLINGS, et al | : | |
| Application No. 11/541,451 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 589188001US2 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 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 D. Lawrenz on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee 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 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ADVANTAGE SOLUTIONS, INC.
/DBA AVALARA, INC.,
900 WINSLOW WAY EAST, STE. 130
BAINBRIDGE ISLAND WA 98110

cc : ROY RAWLINGS,
FOUNDER AND CHIEF TAX AUTOMATION
OFFICER, AVALARA INC.
435 ERICKSON AVE., NE
BAINBRIDGE ISLAND WA 98110

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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,471 | 09/29/2006 | Hee Suk Pang | 24622-0023001 | 9324 |

26181 7590 06/01/2009
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| LEE, PING |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/01/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,471 | : | PARTICIPATE IN PATENT |
| Filed: October 2, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 24622-0023001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 16, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 3 above in that the amended claim 17 filed in the Preliminary Amendment on April 16, 2009 in this instant case is not sufficiently correspond to claim 17 of KIPO application 10-2008-7007450.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any response must be submitted via EFS-web.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

_/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,471 | 09/29/2006 | Hee Suk Pang | 24622-0023001 | 9324 |

26181 7590 01/19/2010
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| LEE, PING |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/19/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,471 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **24622-0023001** | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 1, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

Q.24

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. |
|---|---|---|---|---|
| 11/541,472 | 09/29/2006 | Hee Suk Pang | 24622-0026001 | 9323 |

26181 7590 06/01/2009
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| JACKSON, JAKIEDA R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/01/2009 | ELECTRONIC |

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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MINNEAPOLIS, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| PANG, HEE SUK, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/541,472 | : | PARTICIPATE IN PATENT |
| Filed: October 2, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No.: 24622-0026001 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 16, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents:
United States Patent and Trademark Office
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| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|---|---|---|---|
| 11/541,480 | 9/29/06 | Alexander E. Smith | RANN-0029 |

| EXAMINER |
|---|
| Dao L. Phan |
| Art Unit 3662 |

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed April 11, 2009 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance has been:

[ X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(2)(i) and 1.97(e)

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

/Thomas H. Tarcza/

Thomas H. Tarcza
SPE Art Unit 3662
571-272-6979

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DEC 08 2009

OFFICE OF PETITIONS

KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA GA 30309-3521

In re Patent No. 7,563,787
Issued: July 21, 2009
Application No. 11/541,484
Filed: September 29, 2006
Atty. Dkt. No.: 57043-4051 (13666.105005)

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT UNDER
: 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed July 30, 2009.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is DISMISSED.

The above-identified application matured into U.S. Patent No. 7,563,787 on July 21, 2009. The instant request for reconsideration was timely filed July 30, 2009 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 157 days.

Patentees argue that the application is entitled to an overall adjustment of 214 days based on an adjustment 243 days reduced 29 days for applicant delay. Patentees argue that the reduction of 57 days in connection with the information disclosure statement (IDS) filed November 20, 2008 is in error on the grounds that as "a reply to a restriction requirement is considered a formality and not an action on the merits, it would not require the Office to restart consideration of the reply in view of a supplemental IDS." Patentees further argue that because "all IDS documents were provided prior to the first office action on the merits, there is no basis for the 57-day Applicant debit included in the Office's PTA calculation."

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 57 day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

In view thereof, the adjustment of 157 days will not be reconsidered.

Receipt is acknowledged of the required patent term adjustment application fee of $200.00.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**THE ECLIPSE GROUP LLP**
**10605 BALBOA BLVD., SUITE 300**
**GRANADA HILLS CA 91344**

**MAILED**

JUL 07 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Timothy Prenta, et al. | : | |
| Application No. 11/541,487 | : | DECISION GRANTING PETITION |
| Filed: September 30, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. HI06001USU | : | |
| (P06058US) | | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 6, 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 8, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed replacement drawings.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Stephen T. Sullivan**
**ADE CORPORATIN**
**5470 e. Universal Way**
**Tucson AZ 85706**

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of :
Timothy Tiemeyer :
Application No. 11/541,493 : ON PETITION
Filed: September 30, 2006 :
Attorney Docket No. 2006-002.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed August 10, 2007 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 19, 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 December 20, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The oath or declaration was not filed with instant petition as required by the Notice to File Missing Parts of Nonprovisional Application letter mailed October 19, 2006.

The additional fees required by the Notice have been received.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Jed Caven**
**9249 S. Broadway Blvd, Unit 200-201**
**Highlands Ranch, CO 80129**

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

**Caven & Aghevli LLC**
**9249 South Broadway Blvd.**
**Unite 200-201**
**Highlands Ranch CO 80129**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Timothy Tiemeyer | : | |
| Application No. 11/541,493 | : | DECISION ON PETITION |
| Filing Date: September 30, 2006 | : | |
| Attorney Docket No. 2006-002.01 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed, July 18, 2008 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 19, 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 December 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the basic filing fee, oath/declaration, surcharge, additional claim fees, search fee, examination fee and drawings contain more than 100 pages fee , (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to the Office of Patent Application Processing for further processing.

Chris Bottorff
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-19-10

TO SPE OF : ART UNIT 3773

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/541505 Patent No.: 7658751

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**Randolph Square – 9D10-A**
**Palm Location 7580**

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

SPE — Art Unit 3773

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

[redacted]

OCT 1 5 2007

| | | |
|---|---|---|
| In re Application of | : | |
| Hideto Motomura | : | DECISION ON REQUEST TO |
| Application No. 11/541508 | : | PARTICIPATE IN PATENT |
| Filed: September 29, 2006 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 5077-000260/US/CO | : | PILOT PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 17, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Shin Aoki | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7608972 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,525 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/02/2010

| | | |
|---|---|---|
| **Applicant** | : Manabu Morita | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623964 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,534 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **661** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/11/2010

| | | |
|---|---|---|
| **Applicant** | : Yasuhiro Kojima | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658360 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,544 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **448** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,556 | 10/03/2006 | Joo-sun Hong | 52393 | 2719 |

7590 03/11/2009
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

| EXAMINER |
|---|
| TRAN, THAI Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/11/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/12/2009 BPOWELL
10/04/2006 HLE333 00000079 11541556
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

Repln. Ref: 03/12/2009 BPOWELL 0016401000
DAN:182220 Name/Number:11442295
FC: 9204 $500.00 CR



FORM PET651G (Rev. 08/07)

Repln. Ref: 03/12/2009 BPOWELL 0016421200
DA#:182220 Name/Number:11541556
FC: 9204 $700.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

MAILED

AUG 24 2009

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

| | | |
|---|---|---|
| In re Patent No. 7,438,544 | : | |
| Issue Date: October 21, 2008 | : | |
| Application No. 11/541,609 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. 3643-0124PUS1 | : | |

This is a decision on the petition filed May 26, 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

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11541609 Total Records Found: 12

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 08/21/2009 | 00000022 | 4 | 1811 | -$100.00 | 05/26/2009 | DA 022448 |
| 08/21/2009 | 00000021 | 4 | 1464 | -$130.00 | 05/26/2009 | DA 022448 |
| 07/02/2009 | 00003531 | 4 | 8021 | $40.00 | 07/01/2009 | DA 022448 |
| 05/27/2009 | 00005602 | 4 | 1464 | $130.00 | 05/26/2009 | DA 022448 |
| 05/27/2009 | 00005603 | 4 | 1811 | $100.00 | 05/26/2009 | DA 022448 |
| 09/16/2008 | 00002032 | 4 | 1501 | $1,440.00 | 09/15/2008 | DA 022448 |
| 09/16/2008 | 00002034 | 4 | 8001 | $12.00 | 09/15/2008 | DA 022448 |
| 09/16/2008 | 00002033 | 4 | 1504 | $300.00 | 09/15/2008 | DA 022448 |
| 10/04/2006 | 00000298 | 1 | 1111 | $500.00 | 10/03/2006 | CK |
| 10/04/2006 | 00000299 | 1 | 1311 | $200.00 | 10/03/2006 | CK |
| 10/04/2006 | 00000297 | 1 | 1011 | $300.00 | 10/03/2006 | CK |
| 10/04/2006 | 00000300 | 1 | 8021 | $40.00 | 10/03/2006 | CK |

```
Adjustment date: 08/21/2009  LDIEP1
05/27/2009 INTEFSW  00003435 022448   11541609
01 FC:1464        130.00 CR
02 FC:1811        100.00 CR
```

Docket No.: 5678-0101PUS1
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Letters Patent of:
Erwin GLAWION et al.

Patent No.: 7,438,544 B2

Issued: October 21, 2008

For: MELT-BLOW HEAD WITH VARIABLE SPINNING WIDTH

**PETITION UNDER 37 C.F.R. § 1.183 TO ADD ASSIGNEE'S NAME**

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

Attached hereto is a request for a Certificate of Correction under 37 C.F.R. § 1.323 to correct the Assignee's Name on the issued patent. It is respectfully requested that both the request for a Certificate of Correction and the instant Petition be granted such that a Certificate of Correction will issue with the correction as follows:

**--Rieter Automatik GmbH, Grossostheim, Germany --**

The required fee of under 37 C.F.R. § 1.17(f) is listed on the Fee transmittal attached hereto.

It is requested that 37 C.F.R. § 3.81 (a) be waived to provide the complete listing of assignees. Failure to include a complete listing of assignees' names under item (5) of PTOL 85-B was inadvertent.

08/21/2009 LDIEP1 00000004 022448 7438544
01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

A copy of the ASSIGNMENT AND RECORDATION OF ASSIGNMENT DOCUMENTS are attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: May 26, 2009

Respectfully submitted,

By _____

James M. Slattery
Registration No.: 28,380
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachments

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/541,611 | 09/29/2006 | 1745 | 1130 | 04724.0105 | 11 | 20 | 3 |

**CONFIRMATION NO. 4216**

**CORRECTED FILING RECEIPT**

*OC000000022184527*

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 01/26/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Koji Nakamura, Tokyo, JAPAN;
Akihiro Ozeki, Tokyo, JAPAN;
Ryoji Ninomiya, Tokyo, JAPAN;

**Power of Attorney:** The patent practitioners associated with Customer Number **22852**.

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/JP05/05201 03/23/2005

**Foreign Applications**

JAPAN 2004-108045 03/31/2004

**If Required, Foreign Filing License Granted:** 10/23/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/541,611**

**Projected Publication Date:** 03/29/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Fuel cell unit, information processing apparatus, and power supply control method for information processing apparatus

**Preliminary Class**

429

## 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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www.uspto.gov

Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 07/02/2010

| | | |
|---|---|---|
| **Applicant** | : Dimitri Papadimitriou | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639692 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,638 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **598** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/23/2010

| | | |
|---|---|---|
| **Applicant** | : Kenji Yoshioka | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652741 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,662 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/11/2010

| | | |
|---|---|---|
| **Applicant** | : Liang-Gee Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616885 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,694 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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.

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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Richard P. Berg, ESQ.
c/o LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles CA 90036-5679

MAILED
JUL 19 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Srinivasa | : | |
| Application No. 11/541,711 | : | DECISION ON PETITION |
| Filed: September 29, 2006 | : | |
| Attorney Docket No. B-4420DIV 623581-5 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 29, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 29, 2009. Accordingly, the date of abandonment of this application is March 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) an acceptable 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, practitioner 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, practitioner 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 the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: GEORGE R. RAPACKI
HRL LABORATORIES, LLC
3011 MALIBU CANYON ROAD
MALIBU, CA 90265

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/541,722 | 10/03/2006 | Jun Fujimoto | 136165 | 4197 |

7590 11/05/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| KUNTZ, CURTIS A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/05/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Repin. Ref: 11/06/2009 NFARMER 00148[illegible]
DRN:152461 Name/Number:11541722
PL: 1224 $500.00 CR

Adjustment date: 11/06/2009 NFARMER
10/05/2006 EAYALEW1 00000015 11541722
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

RECEIVED
CENTRAL FAX CENTER
MAR 2 3 2010

Form PTO-140
(3-75)

U.S. DEPARTMENT OF COMMERCE
Patent & Trademark Office

BEFORE USING THIS ORDER FORM read the important information on the reverse side

# DEPOSIT ACCOUNT ORDER FORM

MAIL TO: Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: 03/23/2010

FOR OFFICE USE ONLY

Account No. 02-0200

Order No. CHOU3130/CCC

ITEM OR SERVICE

VALUE FURNISHED ACTION OFF. USE

Name and Address of Depositor:
Bacon & Thomas, PLLC
625 Slaters Lane
4th Floor
Alexandria, VA 22314
(703) 683-0500

DESCRIPTION OF ARTICLES OR SERVICES TO BE FURNISHED

To: Office of Petitions Fax: 571-273-8300

U.S. Patent No. 7,394,237

Inventor: Hung-Liang CHOU

Filing Date: October 3, 2006

Title: MAXIMUM POWER POINT TRACKING METHOD AND TRACKING DEVICE THEREOF FOR A SOLAR POWER SYSTEM

THE OFFICE IS AUTHORIZED TO CHARGE THE PETITION FEE OF $130.00 TO OUR DEPOSIT ACCOUNT NO. 02-0200.

Bacon & Thomas, PLLC

If additional space is needed attach separate sheet.

Signature

Chung Chin CHEN
Registration No. 31,725
Telephone: 703 683 0500
Facsimile: 703 683 1080

U.S. Department of Commerce
PATENT AND TRADEMARK OFFICE

Washington, D.C. 20231
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BACON & THOMAS, PLLC

625 Slaters Lane, 4th Floor

Alexandria, VA. 22314

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 7,394,237 : Issue Date: July 1, 2008
: Confirmation No.: 2924

Hung-Liang CHOU :
: Group Art Unit: 2838

Serial No.: 11/541,739
: Examiner: Gary Laxton

Filed: October 3, 2006
: Atty Dkt: CHOU3130/EM

For: Maximum Power Point Tracking Method and Tracking Device Thereof for a Solar Power System

**PETITION UNDER 37 C.F.R. § 3.81(b)**
**REQUESTING CORRECTION OF ASSIGNEE NAME**

**Mail Stop Petitions**
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for the above-identified patent to be corrected to state the name of the assignee, **Ablerex Electronics Co., Ltd.**

A change of name document changing the name of the assignee from UIS Abler Electronics Co., Ltd to Ablerex Electronics Co., Ltd. was submitted for recordation before issuance of the patent. The name change was recorded at **Reel/Frame 019084/0903 on March 29, 2007**, which is before the issuance of the patent on July 1, 2008.

A request for a certificate of correction was submitted on May 29, 2009 but no response had been received from the U.S. PTO as of March 18, 2010. A telephone call was placed to Mr. Lewis and to Ms. Mary Diggs at the Office of Data Management. After a discussion with Ms. Diggs, it was determined that the Request for Certificate of Correction had not yet been assigned to anyone at that

03/25/2010 HMARZI1 00000001 020200 11541739
01 FC:1464 130.00 DA

U.S. Patent No. 7,394,237
U.S.S.N. 11/541,739
Attorney Docket No.: CHOU3130/EM

point, but after review of the document, Ms. Diggs advised that it would not be granted since a petition would need to be filed first and then the Office of Petitions would forward the certificate of correction to her office for approval. The fee of $100 was previously submitted on May 25, 2009. A copy of the previous request and the processing fee of **$130.00** under 37 CFR §1.17(I) is submitted herewith.

Respectfully submitted,

Date: March 22, 2010

Chung Chin Chen
Registration No. 31,725

BACON & THOMAS
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Phone: (703) 683-0500
Fax: (703) 683-1080
S:\Producer\ccc\CHOU3130 Petition Under 37 CFR 3.81(b) Requesting Correction of Assignee Name.wsd

PATENT

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: HUNG-LIANG CHOU
SERIAL NO.: 11/541,739 (7,394,237)
FILED: October 3, 2006 (July 1, 2008)
FOR: MAXIMUM POWER POINT TRACKING METHOD AND TRACKING DEVICE THEREOF FOR A SOLAR POWER SYSTEM

GROUP ART UNIT: 2838
EXAMINER: Laxton, Gary L.
ATTY. REFERENCE: CHOU3130/CCC

COPY

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

*Sir:*

The below identified communication(s) or document(s) is(are) submitted in the above application or proceeding:

- ☒ Certificate of Correction
- ☐ Priority Document
- ☐ Formal Drawings
- ☐ Issue Fee Transmittal
- ☒ Check in the Amount of $ 100.00
- ☐ Application Data Sheet
- ☐

☒ Please debit or credit Deposit Account Number 02-0200 for any deficiency or surplus in connection with this communication. A duplicate copy of this sheet is provided for use by the Deposit Account Branch.

☒ Small Entity Status is claimed.

☐

23364
Customer Number

BACON & THOMAS, PLLC
625 SLATERS LANE - FOURTH FLOOR
ALEXANDRIA, VIRGINIA 22314
(703) 683-0500

Date: May 29, 2009

*Respectfully submitted,*

George C. Chen
*Attorney for Applicant*
Registration Number: 31.725

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT NO. : 7,394,237

DATED : July 1, 2008

INVENTOR(S) : Hung-Liang CHOU

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please change the Assignee listed on the first page of the above-identified patent from "UIS Abler Electronics Co., Ltd." to --Ablerex Electronics Co., Ltd.--

Mailing address of sender:

Patent No. 7,394,237

No. of add'l copies @ .30 per page

Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

**BACON & THOMAS**
625 Slaters Lane 4th Fl., Alexandria, VA 22314

PATENT APPLICATION
(PENDING)

Serial No: 11/541,739
(7,394,237)

Filed: October 3, 2006
(July 1, 2008)

Attorney:
**CHOU3130/CCC/cmd**

Applicant(s): Ming-Chung CHENG

☒ MAILROOM ☐ ART UNIT ☐

Special Instructions:

The PTO stamp hereon acknowledges receipt of:

☒ Document Transmittal
Certificate of Correction
Check in the total amount of $100

OIPE
MAY 29 2009
PATENT & TRADEMARK OFFICE

Filed by CCC/cmd

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

March 25, 2010

Patent No. : 7,394,237 B2
Appl. No. : 11/541,739
Inventor(s) : Hung-Liang Chou, et al.
Issued : July 1, 2008
Title : **MAXIUM POWER POINT TRACKING METHOD AND TRACKING DEVICE THEREOF FOR A SOLAR POWER SYSTEM**
Docket No. : **CHOU3130/EM**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
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.

**Antonio Johnson**
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,394,237 :
Issue Date: July 1, 2008 :
Application No. 11/541,739 :
Filed: October 3, 2006 :
Attorney Docket No. CHOU3130/EM :

This is a decision on the petition filed March 26, 2010, 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

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/541,747 | 10/03/2006 | Sang-hoon Lee | 0005.1103 |

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

DATE MAILED: July 9, 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 June 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 22 2007

OFFICE OF PETITIONS

Kevin M. Farrell
Pierce Atwood
Suite 350
One New Hampshire Avenue
Portsmouth NH 03801

| | | |
|---|---|---|
| In re Application of<br>Michael Bailey<br>Application No. 11/541,754<br>Deposited: October 2, 2006<br>Title: Tool For Scribing Tile | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION |

This is a decision on the petition filed November 13, 2006, requesting that the above-identified application be accorded the filing date of October 2, 2006.

The petition is **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Application papers in the above-identified application were deposited on October 2, 2006. However, on October 25, 2006, the Office of Initial Patent Examination mailed 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 drawings.

In response, the present petition was filed on November 13, 2006. The petition contends that the application as filed included five sheets of drawings and were described in the original filed specification. In support, the petition alleges a postcard receipt was submitted with the petition. However review of the record shows that the Office is not in receipt of the postcard

receipt. A copy of the postcard receipt should be submitted on renewed petition. It should also be noted that petitioner needs to send a copy of the drawings which were purportedly submitted on October 2, 2006.

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>Customer Service Window,<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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

Kevin M. Farrell
Pierce Atwood
Suite 350
One New Hampshire Avenue
Portsmouth NH 03801

**COPY MAILED**

OCT 2 4 2007

**OFFICE OF PETITIONS**

In re Application of :
Michael Bailey :
Application No. 11/541,754 : ON PETITION
Deposited: October 2, 2006 :
Title: Tool For Scribing Tile :

This is a decision on the Petition for Filing Date filed February 26, 2007, requesting that the above-identified application be accorded the filing date of October 2, 2006.

Application papers in the above-identified application were deposited on October 2, 2006. However, on October 25, 2006, the Office of Initial Patent Examination mailed 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 drawings.

In response, 5 sheets of drawings and the present petition were filed on October 2, 2006. The petition contends that the application as filed included 5 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "Drawings (5 pp.)" on October 2, 2006.

Applicants' postcard receipt is prima facie[1] evidence that drawings were received on October 2, 2006, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is

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[1]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. See MPEP 503.

concluded that 5 sheets of drawings were received on October 2, 2006, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on February 26, 2007, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of October 2, 2006**, using the 5 sheets of drawings supplied on February 26, 2007.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 08 2010

OFFICE OF PETITIONS

MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

| | | |
|---|---|---|
| In re Application of | : | |
| Beasley et al. | : | |
| Application Number: 11/541763 | : | DECISION ON PETITION |
| Filing Date: 10/02/2006 | : | |
| Attorney Docket Number: | : | |
| SC06540US01 | | |

This is a decision on the petition filed on March 17, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 27, 2009, for failure to timely submit a reply to the final Office action mailed on February 26, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 8, 2009.

On March 18, 2009, a request for continued examination (RCE) was filed.

Receipt of the RCE and submission under 37 CFR 1.114 are acknowledged.

The Terminal Disclaimer filed on March 17, 2010, is not required since the application is a utility or plant application filed on or after June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The Terminal Disclaimer fee of $140.00 will be refunded to petitioners' counsel.

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 March 17, 2010, was submitted more than three (3) months after the end of the period for reply to the final Office action mailed on February 26, 2009, and therefore is unnecessary. The extension of time fee paid on March 17, 2010, will be refunded to counsel.

This application is being referred to Technology Center Art Unit 1616 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

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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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GRAYBEAL JACKSON - REAL NETWORKS
GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Gregory J. Conklin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7605866 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,767 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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GRAYBEAL JACKSON - REAL NETWORKS
GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 05/18/2010

**Applicant** : Gregory J. Conklin
**Patent Number** : 7605866
**Issue Date** : 10/20/2009
**Application No** : 11/541,767
**Filed** : 10/02/2006

: 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 **139** 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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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Takehiro Yoshida | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649194 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,790 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

**HOFFMANN & BARON, LLP**
**6900 JERICHO TURNPIKE**
**SYOSSET, NY 11791**

**MAILED**

MAR 30 2009

**OFFICE OF PETITIONS**

In re Application of
Jacob **STOLTZE, et al.**
Application No. 11/541,792
Filed: October 2, 2006
Attorney Docket No. **760-46 CIP/PCT/US/CON IV**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that a request to disregard the aforementioned request to withdraw power of attorney was received on March 25, 2009. The request was signed by Anna-Lisa Gallo, attorney of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

| | | |
|---|---|---|
| **Applicant** | : Rainer Disch-Simon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632213 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/541,795 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of

Bauer, et al.

Application No. 11/541,818

Filed: October 2, 2006

Attorney Docket No. X-2217 US

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 13, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1510.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 12, 2008. The Notice set forth a three (3) month statutory period for reply. The issue fee was not received within the allowable period. Accordingly, this application became abandoned on November 13, 2008. A Notice of Abandonment was mailed November 19, 2008.

The issue fee was received on November 13, 2008.

Form PTOL-85B, filed November 13, 2008, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Martin Busch | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651522 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,832 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **89** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Carella, Byrne, Bain, Gilfillan, Cecchi,
Stewart & Olstein
5 Becker Farm Road, 2nd Floor
Roseland NJ 07068-1739

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JUN 01 2007

**OFFICE OF PETITIONS**

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|---|---|
| In re Application of<br>Pittenger et al.<br>Application No.11/541,853<br>Filed: October 2, 2006<br>Attorney Docket Number: 640100.515<br>Title: Mesenchymal Stem Cells and Uses Therefor | 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 April 23, 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 October 2, 2006, without an executed oath or declaration. Accordingly, on October 24, 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 four (4) month extension of time was submitted. Pursuant to petitioner's request, deposit account 03-0678 will be charged the $200.00 petition fee.

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.

There is no evidence that the application papers (specification, including claims, drawings, and oath or declaration) were presented to inventor Aggarwal, the record shows that only the declaration and Power of Attorney were presented to inventor Aggarwal.

Petitioner has failed to provide any information/evidence regarding non-signing inventors Pittenger and Varney.

**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).

**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).

**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<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>Customer Service Window, Mail Stop Petition<br>Randolph Building<br>401 Dulany Street<br>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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

**Sutherland Asbill & Brennan LLP**
**999 Peachtree Street, N.E.**
**Atlanta, GA 30309**

MAILED

JUN 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Roman Denk, et al. | : | |
| Application No. 11/541,888 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 28007-0080 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David E. Wigley on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CeloNova BioSciences, Inc.**
**49 Spring Street**
**Newnan, GA 30268-2768**

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 |
|---|---|---|---|
| 11/541,888 | 10/02/2006 | Roman Denk | 28007-0080 |

**CONFIRMATION NO. 3240**

**POWER OF ATTORNEY NOTICE**

29052
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

*OC000000036583426*

Date Mailed: 06/19/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/13/2009.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**FISH & RICHARDSON PC**
**P.O. BOX 1022**
**MINNEAPOLIS MN 55440-1022**

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Terry B. Strom et al
Application No. 11/541,912
Filed: October 2, 2006
Attorney Docket No. 01948-061002

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed July 28, 2009 which is being 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 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 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 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 1636 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

**ATTACHMENT** : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/541,912 | 10/02/2006 | 1636 | 690 | 01948-061002 | 1 | 1 |

**CONFIRMATION NO. 5356**

**CORRECTED FILING RECEIPT**

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

*OC000000037910192*

Date Mailed: 09/22/2009

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)**

Terry B. Strom, Brookline, MA;
Manikkam Suthanthiran, Scarsdale, NY;
Lauro Vasconcellos, Espirito Santo, BRAZIL;

**Assignment For Published Patent Application**

Cornell Research Foundation Inc., a New York, NY corporation
Beth Israel Deaconess Medical Center, Inc., a Massachusetts Corporation

**Power of Attorney:**

John Freeman--29066
Timothy French--30175
Janis Fraser--34819
Lynda Crews--43567
John Brennan--47443

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/778,013 02/06/2001 ABN
which is a CIP of 08/937,063 09/24/1997 PAT 6,187,534
and claims benefit of 60/199,327 04/24/2000
and claims benefit of 60/238,718 10/06/2000
and claims benefit of 60/239,635 10/12/2000
and claims benefit of 60/240,735 10/16/2000

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/26/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/541,912**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****
**Title**

Methods of evaluating transplant rejection

**Preliminary Class**

435

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## 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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SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Franz X. Zach | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7600212 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,921 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**MCCARTER & ENGLISH, LLP**
**FOUR GATEWAY CENTER**
**100 MULBERRY STREET**
**NEWARK, NJ 07102**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **HAZLEHURST**, Fred | : | |
| Application No. 11/541,924 | : | DECISION GRANTING PETITION |
| Filed: September 29, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **96964-00911** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on November 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1797 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.*

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

**LOUIS L. DACHS**
**1794 PALISADES DR.**
**PACIFIC PALISADES CA 90272**

COPY MAILED

JUN 0 4 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Harvey et al. | : | |
| Application No. 11/541,936 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. P265 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3661 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**MYERS & KAPLAN**
**INTELLECTUAL PROPERTY LAW, L.L.C.**
**CUMBERLAND CENTER II**
**3100 CUMBERLAND BLVD , SUITE 1400**
**ATLANTA GA 30339**

COPY MAILED

AUG 2 5 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **ATKINSON,** Mitchell | : | |
| Application No. 11/541,942 | : | DECISION ON PETITION |
| Filed: October 02, 2006 | : | TO WITHDRAW |
| Attorney Docket No. **32380-RA** | : | FROM RECORD |

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 15, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Joel Myers on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 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 Mitchell Atkinson at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MITCHELL J. ATKINSON**
**P.O. BOX 861**
**HELEN, GA 30545**

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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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sebastien Pruvost | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586195 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/541,960 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : 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.

Atty. Dkt. No. 025948-0189

*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

Applicant: Frank M. Keese et al.

Title: BELTS WITH INTEGRAL FLIGHTS FOR USE IN HIGH-TEMPERATURE FOOD PROCESSING EQUIPMENT AND SYSTEMS INCLUDING SUCH BELTS

Appl. No.: Not yet assigned 11-541971

Filing Date: 10/02/2006

Examiner: Not yet assigned

Art Unit: Not yet assigned 1772

Confirmation Number: Not yet assigned

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EV 828707762 US (Express Mail Label Number) 10/2/06 (Date of Deposit)

Carolyn Simpson (Printed Name)

Carolyn Simpson (Signature)

**PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Patent and Trademark Office under 37 C.F.R. §1.102(c) to make special the instant application. It is believed that no fee is due for the instant petition. However, should a fee be required, the PTO is authorized to charge the Deposit Account No. 06-1447. This petition is submitted on the grounds that one of the present applicants is 65 years of age or more as set forth in 37 C.F.R. § 1.102(c). The basis for the petition is to obtain special status for this application so that it receives expedited prosecution.

**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700

NOV - 7 2006



BEST AVAIL

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 04/21/09

**TO SPE OF** : ART UNIT 2627

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/541,977 Patent No.: 7,471,482

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**

**Should the changes** RoChaun Johnson **Be made?**

**Certificates of Correction Branch**

**703-308-9390 ext.** 119

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| **X Approved** | **All** changes apply. |
| ❑ **Approved in Part** | Specify below which changes **do not** apply. |
| ❑ **Denied** | State the reasons for denial below. |

**Comments:** _____

/K.Wong/ 21 Apr 09 /Wayne Young/ SPE AU 2627

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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AUG 03 2009

OFFICE OF PETITIONS

**HARMAN - BRINKS HOFER CHICAGO**
**Brinks Hofer Gilson & Lione**
**P.O. Box 10395**
**Chicago IL 60610**

| | | |
|---|---|---|
| In re Application of | : | |
| Eric Royse | : | |
| Application No. 11/541,980 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 11336/1297(P06081US) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John F. Nethery on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Eric Royse
6230 Crittenden Avenue
Indianapolis, IN 46220

cc: Robert P. Hart, Esq.
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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 |
|---|---|---|---|
| 11/541,980 | 10/02/2006 | Eric Royse | 11336/1297(P06081US) |

**CONFIRMATION NO. 3586**

**POWER OF ATTORNEY NOTICE**

*OC000000037181110*

81166
HARMAN - BRINKS HOFER CHICAGO
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

Date Mailed: 08/03/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Dighans
Application No. 11/542,004
Filed: October 2, 2006
Attorney Docket No. TKG 4939

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2009 (certificate of mailing date January 8, 2009), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 3, 2008. Accordingly, the date of abandonment of this application is December 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00, (2) the petition fee of $810.00; and (3) an acceptable statement of unintentional delay.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHIEN-HUI SU
P. O. BOX 70-121 TAICHUNG
TAICHUNG CITY 40899 TW
TAIWAN

MAILED

FEB 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hsieh | : | |
| Application No. 11/542,012 | : | DECISION |
| Filed/Deposited: 2 October, 2006 | : | |
| Attorney Docket No. J5P6072-GFP-953852 | : | |

This is a decision on the petition, filed on 9 October, 2008, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. 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.

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 and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

**It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition is incomplete in the record (the FAX is partially obscured/garbled in transmission) and must be resubmitted; the petition was filed without a proper reply in the form of a request for continued examination (RCE) and fee with submission pursuant to 37 C.F.R. §1.114; because of the garbled transmission the statement of unintentional delay**

**does not appear to be present and/or complete; and due to the extended delay Petitioner must detail the delay that led to the abandonment, the delay that occurred between the abandonment and the filing of the original petition, and the delay that occurred between the abandonment and the filing of a grantable petition.**

## BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 20 July, 2007, with reply due absent an extension of time on or before 20 October, 2007.

On Monday, 22 October, 2007, Petitioner submitted an amendment after final, which the Examiner refused to enter and Petitioner knew or should have known was not as of right and not a proper reply[1] if it does not *prima facie* place the application in condition for allowance, and on 30 October, 2007, the Examiner mailed an Advisory Action.

The application went abandoned after midnight 20 October, 2007.

The Office mailed the Notice of Abandonment on 5 February, 2008.

On 1 August, 2008, Petitioner submitted, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, however, the following deficiencies are apparent:

- The petition is incomplete in the record (the FAX is partially obscured/garbled in transmission;
- The petition was filed without a proper reply in the form of a request for continued examination (RCE) and fee with submission pursuant to 37 C.F.R. §1.114;
- Because of the garbled transmission the statement of unintentional delay does not appear to be present and/or complete; and
- Due to the extended delay Petitioner must detail the delay that led to the abandonment, the delay that occurred between the abandonment and the filing of the original petition,

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

and the delay that occurred between the abandonment and the filing of a grantable petition.

Moreover, the record appears in conflict in that Petitioner avers that he instructed his agent to file materials timely, however, all materials were filed over Petitioner's signature, thus, there does not appear to have been an agent of record acting on behalf of Petitioner at the time of abandonment and/or at the times thereafter at least until the filing of the petition on 9 October, 2008.

In regard to these deficiencies, Petitioner's attention is drawn also to the guidance in the Commentary at MPEP §711.03(c )(II) (see: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c ).

*It appears that the Revocation/Power of Attorney filed on 9 October, 2008, has been entered.*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[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). See specifically, the regulations at 37 C.F.R. §10.18.

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was

As to Satisfaction of
Requirements under the Rule

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the reply requirement under the rule.

## CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHIEN-HUI SU
P. O. BOX 70-121 TAICHUNG
TAICHUNG CITY 40899 TW
TAIWAN

COPY MAILED
JUN 22 2009
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hsieh | : | |
| Application No. 11/542,012 | : | DECISION |
| Filed/Deposited: 2 October, 2006 | : | |
| Attorney Docket No. J5P6072-GFP-953852 | : | |

This is a decision on the petition, filed on 29 March, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment 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 that:

Petitioner failed to reply timely and properly to the final Office action mailed on 20 July, 2007, with reply due absent an extension of time on or before 20 October, 2007.

On Monday, 22 October, 2007, Petitioner submitted an amendment after final, which the Examiner refused to enter and Petitioner knew or should have known was not as of right and not

a proper reply[1] if it does not *prima facie* place the application in condition for allowance, and on 30 October, 2007, the Examiner mailed an Advisory Action.

The application went abandoned after midnight 20 October, 2007.

The Office mailed the Notice of Abandonment on 5 February, 2008.

On 9 October, 2008, Petitioner submitted, inter alia, a petition pursuant to 37 C.F.R. §1.137(b), with fee. (It appeared that the Revocation/Power of Attorney filed on 9 October, 2008, was entered.) However, the following deficiencies were apparent: the petition was incomplete in the record (the FAX was partially obscured/garbled in transmission; the petition was filed without a proper reply in the form of a request for continued examination (RCE) and fee with submission pursuant to 37 C.F.R. §1.114; because of the garbled transmission the statement of unintentional delay did not appear to be present and/or complete; and due to the extended delay Petitioner had to detail the delay that led to the abandonment, the delay that occurred between the abandonment and the filing of the original petition, and the delay that occurred between the abandonment and the filing of a grantable petition. Moreover, the record appeared in conflict in that Petitioner averred that he instructed his agent to file materials timely, however, all materials were filed over Petitioner's signature, thus, there does not appear to have been an agent of record acting on behalf of Petitioner at the time of abandonment and/or at the times thereafter at least until the filing of the petition on 9 October, 2008. The petition was dismissed on 27 February, 2009.

On 29 March, 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 a request for continued examination (RCE) and fee with submission pursuant to 37 C.F.R. §1.114. Petitioner detailed a miscommunication in his reference to an "agent"; and detailed the facts of the delay and reasserted that the delay was unintentional.

The record (including the petitions filed on 9 October, 2008, and 29 March, 2009) does not necessitate a finding that the delay between midnight 20 October, 2007 (date of abandonment), and 29 March, 2009 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Chien-Hui Su when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

**Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c )(II).**

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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.[3]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[5]))

### 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 herein 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**.

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an 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.

The instant application is released to the Technology Center/AU 3727 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[6]) 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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[6] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES A CHRISTIAN
3923 CROUCH DRIVE
NASHVILLE TN 37206

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MAR 3 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Charles Anthony Christian | : | |
| Application No. 11/542,029 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Title: Perforated Projection Visors | : | |

This is a decision on the letter titled "PETITION TO WITHDRAW ABANDONMENT STATUS", filed March 11, 2008, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007.

The instant petition lacks a signature as required by 37 CFR 1.4(d). Accordingly, until such time as petitioner presents a signed petition, the matter will not be considered on the merits.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NASHVILLE TN 37206

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MAY 0 9 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Charles Anthony Christian | : | |
| Application No. 11/542,029 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Title: Perforated Projection Visors | : | |

This is a decision on the letter titled "PETITION TO WITHDRAW ABANDONMENT STATUS", filed April 15, 2008, which is being treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007. Applicant filed a petition to withdraw the holding of abandonment on March 11, 2008. However, the petition was dismissed in a decision mailed on March 31, 2008. The decision explained that the petition was not signed, and therefore would not be considered on the merits.

With the instant renewed petition, petitioner has presented a signed petition.

Petitioner argues that he did timely file a reply to the February 8, 2007 Office action via Express Mail on May 7, 2007. Concerning Express Mail, 37 CFR 1.10(e) states, in pertinent part:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "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.

Here, petitioner has not demonstrated that the number of the Express Mail mailing label was placed on the paper he alleges was filed on May 7, 2007.

While petitioner did include a Certificate of Mailing dated May 7, 2007, there is no indication that the Certificate of Mailing was affixed to the papers at issue. Furthermore, a review of the papers allegedly filed on May 7, 2007 does not indicate that those papers bore a signature pursuant to 37 CFR 1.4(d). As such, assuming *arguendo* that petitioner could demonstrate that the papers were filed on May 7, 2007, the papers would not have been proper because they lacked a signature.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $770 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NASHVILLE TN 37206

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
Charles Anthony Christian :
Application No. 11/542,029 : ON PETITION
Filed: October 3, 2006 :
Title: Perforated Projection Visors :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 30, 2008.

The renewed petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007. Applicant filed a petition to withdraw the holding of abandonment on March 11, 2008. However, the petition was dismissed in a decision mailed on March 31, 2008. The decision explained that the petition was not signed, and therefore would not be considered on the merits. Applicant filed a request for reconsideration, this time bearing a signature, on April 15, 2008. However, this petition was dismissed in a decision mailed on May 9, 2008.

In the April 15, 2008 petition, Petitioner argued that he did timely file a reply to the February 8, 2007 Office action via Express Mail on May 7, 2007. However, the decision dismissing the petition pointed out that the Express Mail mailing label number was not placed on the papers at issue. See 37 CFR 1.10(e)(2). The decision also noted that while petitioner did include a Certificate of Mailing dated May 7, 2007, there was no indication that the Certificate of Mailing was affixed to the papers at issue. Lastly, the decision pointed that for the sake of argument, assuming petitioner were able to demonstrate that the papers at issue were filed on May 7, 2007, the papers would not have been proper because they lacked a signature (as evidenced by the photocopy of the papers presented on petition).

With respect to the Express Mail mailing label number, petitioner argues that the number was placed on the "package", and that nowhere in the "Guide to Filing a Utility Patent Application" booklet does it state that the Express Mail mailing label number must be placed on the paperwork. To the contrary, the "Guide to Filing a Utility Patent Application" explicitly states, "Before depositing an application with the USPS in accordance with the Express Mail procedure set forth in 37 CFR 1.10, it is important to place the number of the 'Express Mail' mailing label on the application papers".[1]

With respect to the Certificate of Mailing, petitioner contends that he adhered to the USPTO guidelines in preparing the Certificate of Mailing. The Manual of Patent Examining Procedure, Section 512, under the heading "I. Procedure by Applicant" states:

> (B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.
>
> (C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc.

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[1] "A Guide to Filing A Non-Provisional (Utility) Patent Application", located at http://www.uspto.gov/web/offices/pac/utility/utility.htm.

Here, a review of the copy of the Certificate of Mailing presented with the April 15, 2008 petition does not indicate that it was affixed to the correspondence allegedly filed on May 7, 2007. Rather, the Certificate of Mailing was presented on a separate sheet of paper. While this is permissible, in that instance petitioner must fully identify the paper it accompanies, by including the application number, filing date of the application, and type of paper being filed. Petitioner did not include any of these types of identifying information.[2] Accordingly, the Certificate of Mailing was not proper.

Lastly, petitioner argues that the papers at issue did contain a signature - specifically, the signature on the Certificate of Mailing. Petitioner's argument is not persuasive. 37 CFR 1.4(d) states that "each piece of correspondence" must include a signature. Moreover, petitioner appears to be confused with the portion of the decision that notified him that the paperwork in question was not signed. Petitioner states "The fact that you are arguing this point clearly shows that your office is in receipt of my patent amendments mailed on May 7, 2007". The Office is not in possession of any such papers. Rather, the decision noted that the papers in question were not signed, **based upon the copy of the papers presented with the petition on April 15, 2008.**

When the Office does not receive correspondence timely from an applicant, it is applicant's burden of proof to demonstrate that the correspondence was timely filed, either pursuant to 37 CFR 1.10 (Express Mail) or 37 CFR 1.8 (Certificate of Mailing). Petitioner did not comply with the provisions of 37 CFR 1.10 or 1.8. Accordingly, the petition must be dismissed.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the

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[2] Instead, the Certificate of Mailing simply read "I hereby certify that this correspondence is being deposited with the United Sates Postal Service with sufficient postage as first class mail in an envelope address to"

outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $770 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Charles Anthony Christian :
Application No. 11/542,029 : ON PETITION
Filed: October 3, 2006 :
Title: Perforated Projection Visors :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 4, 2008.

The renewed petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007. Applicant filed a petition to withdraw the holding of abandonment on March 11, 2008. However, the petition was dismissed in a decision mailed on March 31, 2008. The decision explained that the petition was not signed, and therefore would not be considered on the merits. Applicant filed a request for reconsideration, this time bearing a signature, on April 15, 2008. However, this petition was dismissed in a decision mailed on May 9, 2008.

In the April 15, 2008 petition, Petitioner argued that he did timely file a reply to the February 8, 2007 Office action via Express Mail on May 7, 2007. However, the decision dismissing the petition pointed out that the Express Mail mailing label number was not placed on the papers at issue. See 37 CFR 1.10(e)(2). The decision also noted that while petitioner did include a Certificate of Mailing dated May 7, 2007, there was no indication that the Certificate of Mailing was affixed to the papers at issue. Lastly, the decision pointed that for the sake of argument, assuming petitioner were able to demonstrate that the papers at issue were filed on May 7, 2007, the papers would not have been proper because they lacked a signature (as evidenced by the photocopy of the papers presented on petition).

In a renewed petition filed June 30, 2008, petitioner argued that the Express Mail mailing label number was placed on the "package", and that nowhere in the "Guide to Filing a Utility Patent Application" booklet does it state that the Express Mail mailing label number must be placed on the paperwork. In a decision mailed on August 13, 2008, it was pointed out that the "Guide to Filing a Utility Patent Application" explicitly states, "Before depositing an application with the USPS in accordance with the Express Mail procedure set forth in 37 CFR 1.10, it is important to place the number of the 'Express Mail' mailing label on the application papers".[1]

In his June 30, 2008 petition, petitioner also argued that he adhered to the USPTO guidelines in preparing the Certificate of Mailing. The Manual of Patent Examining Procedure, Section 512, under the heading "I. Procedure by Applicant" states:

> (B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.
>
> (C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc.

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[1] "A Guide to Filing A Non-Provisional (Utility) Patent Application", located at http://www.uspto.gov/web/offices/pac/utility/utility.htm.

The August 13, 2008 decision explained that a review of the copy of the Certificate of Mailing presented with the April 15, 2008 petition did not indicate that it was affixed to the correspondence allegedly filed on May 7, 2007. Rather, the Certificate of Mailing was presented on a separate sheet of paper. While this is permissible, in that instance petitioner must fully identify the paper it accompanies, by including the application number, filing date of the application, and type of paper being filed. Petitioner did not include any of these types of identifying information.[2] Accordingly, the Certificate of Mailing was not proper.

Lastly, in his June 30, 2008 petition, petitioner argued that the papers at issue did contain a signature - specifically, the signature on the Certificate of Mailing. Petitioner's argument was found not to be persuasive, and was so notified in the August 13, 2008 decision. 37 CFR 1.4(d) states that "each piece of correspondence" must include a signature.

With the instant renewed petition filed September 4, 2008, petitioner does not appear to be making any new arguments. Moreover, petitioner does not argue that he complied with the provisions of 37 CFR 1.10 (Express Mail) or 37 CFR 1.8 (Certificate of Mailing). Petitioner appears to be arguing that it is the Office's responsibility to find his lost paperwork for him.

When the Office does not receive correspondence timely from an applicant (whether due to loss by the USPS, or loss by the Office), it is applicant's burden of proof to demonstrate that the correspondence was timely filed, either pursuant to 37 CFR 1.10 (Express Mail) or 37 CFR 1.8 (Certificate of Mailing). Petitioner did not comply with the provisions of 37 CFR 1.10 or 1.8. Accordingly, the petition must be dismissed.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to merit withdrawing the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable

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Instead, the Certificate of Mailing simply read "I hereby certify that this correspondence is being deposited with the United Sates Postal Service with sufficient postage as first class mail in an envelope address to"

petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Petitioner is strongly recommended to revive the application pursuant to 37 CFR 1.37(b). Any such failure to timely file this petition may be construed as intentional delay, and found to be an absolute bar to revival.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NASHVILLE TN 37206

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Charles Anthony Christian | : | |
| Application No. 11/542,029 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Title: Perforated Projection Visors | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 3, 2008.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007. Applicant filed petitions to withdraw the holding of abandonment on March 11, 2008, April 15, 2008, June 30, 2008, and September 4, 2008. However, the petitions were dismissed in decisions mailed on March 31, 2008, May 9, 2008, August 13, 2008, and September 22, 2008, respectively.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

The instant petition does not satisfy requirement (2) above.

With the instant petition, applicant submitted a petition fee in the amount of $770. However, effective October 2, 2008, the small entity fee for a petition to revive under 37 CFR 1.137(b) was increased to $810. Accordingly, on renewed petition, applicant must submit the balance due of $40.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES A CHRISTIAN
3923 CROUCH DRIVE
NASHVILLE TN 37206

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Charles Anthony Christian | : | |
| Application No. 11/542,029 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Title: Perforated Projection Visors | : | |

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed December 16, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to file a reply to the non-final Office action mailed February 8, 2007. This Office action set a shortened statutory period for reply of three (3) months. As no reply was received, the application became abandoned on May 9, 2007. The Office mailed a Notice of Abandonment on August 8, 2007. Applicant filed petitions to withdraw the holding of abandonment on March 11, 2008, April 15, 2008, June 30, 2008, and September 4, 2008. However, the petitions were dismissed in decisions mailed on March 31, 2008, May 9, 2008, August 13, 2008, and September 22, 2008, respectively. Applicant next filed a petition to revive under 37 CFR 1.137(b) on November 3, 2008. However, the petition was dismissed in a decision mailed on December 4, 2008. The petition was dismissed because applicant did not submit the petition fee in full.

With the instant petition, petitioner submitted the balance of the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Amendment was submitted with the previous petition to revive on November 3, 2008.

The application is being forwarded to Group Art Unit 3765 for consideration of the reply filed November 3, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ALEXANDRIA, VA 22313-1405

| | | |
|---|---|---|
| In re Patent No.: RE40703 | : | |
| Issue Date: April 28, 2009 | : | |
| Application No.: 11/542,043 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No.: 1029430-000568 | : | |

This is a decision in response to the petition, filed September 18, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent. The petition is being treated under the provisions of 37 CFR 1.181 (no fee).

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the non-received Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is not accompanied by the evidence required by MPEP § 711.03(c), since no docket records were found attached. Consequently, the request for a duplicate Letters Patent (no fee) cannot be granted at this time.

This decision is made without prejudice to reconsideration. However, any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision to be considered timely.

If petitioner cannot supply the evidence necessary to show non-receipt of the original Letters Patent, or simply does not wish to, petitioner may request reconsideration under the provisions of 37 CFR 1.182. At present, the $130 petition fee submitted with the present petition will not be refunded. If reconsideration under the provisions of 37 CFR 1.182 is requested, the $270 balance of the $400 petition fee will be charged to counsel's deposit account as authorized. If the petition under 37 CFR 1.181 is granted on reconsideration, the $130 petition fee will be refunded as requested.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By Internet: | EFS-Web[1] |

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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ROBERT G. MUKAI, ESQ.
BUCHANAN INGERSOLL PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1405

MAILED

APR 08 2010

OFFICE OF PETITIONS

In re Patent No. RE40703 :
Issue Date: April 28, 2009 :
Application No.: 11/542,043 : DECISION ON PETITION
Filed: October 3, 2006 :
Attorney Docket No.: 1029430-000568 :

This is a decision on the renewed petition filed January 5, 2010, which is being treated under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

Petitioner has adequately supported his claim of non-receipt of the original Letters patent with the evidence provided. Accordingly, the Office of Data Management, Publishing Division, is directed to issue a duplicate Letters Patent.

The $130 petition fee paid with the original petition by deposit account on September 18, 2009 is being refunded to counsel's deposit account, as authorized. In addition, counsel's credit card will be credited $130.00, as it is noted that a petition fee of $130.00 was also charged to counsel's credit card on September 18, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753

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United States Patent and Trademark Office
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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE SUITE 200
FALLS CHURCH, VA 22042

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mark A. Dizigan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615621 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,046 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

COPY MAILED

AUG 18 2008

In re Application of :
Lawrence Lee et al :
Application No. 11/542,052 : ON PETITION
Filed: October 3, 2006 :
Attorney Docket No. 92.1136 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts of Nonprovisional Application (Notice) mailed June 27, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 28, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JAN 04 2010

OFFICE OF PETITIONS

**Connolly Bove Lodge & Hutz, LLP**
**P.O. Box 2207**
**Wilmington, DE 19899**

| | | |
|---|---|---|
| In re Application of | : | |
| Leonid N. Shekhter et al. | : | |
| Application No. 11/542,055 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO WITHDRAW |
| Attorney Docket No. HCS-006A | : | FROM RECORD |
| | : | |

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 **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Connolly Bove Lodge & Hutz, LLP has been revoked by the assignee of the patent application on December 3, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed 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: Goodwin Procter, LLP
Patent Administrator
53 State Street
Exchange Place
Boston, MA 02109-2881

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United States Patent and Trademark Office
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**JAMES J. DALEY**
**679 SHACKAMAXON DRIVE**
**WESTFIELD NJ 07090**

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JUN 25 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **MAURUS LOGAN et al.** | : | |
| Application No. 11/542,077 | : | DECISION ON PETITION |
| Filed: October 02, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **Cable-Mates-101** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 02, 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 by Maurus Logan's and James Daley's, attesting to their age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3677 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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**MICHAEL A. SILEO, JR.**
**MICROSEMI CORPORATION**
**SUITE 900**
**740 E. CAMPBELL ROAD**
**RICHARDSON TX 75081**

**MAILED**

MAY 10 2010

**OFFICE OF PETITIONS**

In re Application of :
Tracy Autry et al :
Application No. 11/542,090 : DECISION ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. 121116.00124 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 8, 2009, is accepted as having been unintentionally delayed.

It is noted that replacement drawings were submitted on June 2, 2009.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on June 2, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**ROBERT C. KLINGER**
**2591 DALLAS PARKWAY**
**SUITE 300**
**FRISCO, TX 75034**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Chad M. Hinrichs**
**Gable Gotwals**
**10th Floor**
**100 W. 5th Street**
**Tulsa OK 74103**

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JAN 30 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Gerald H. Nichols et al. | : | |
| Application No. 11/542,099 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 007651.00002 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant, Gerald H. Nichols, declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application :
Srikanth Venkatraman et al. :
Application No. 11/542,156 : DECISION ON APPLICATION
Filed: October 3, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **IN06132US02** :

This is in response to the REQUEST FOR RECONSIDERATIO, N OF PATENT TERM ADJUSTMENT ("PTA") UNDER 37 C.F.R. § 1.705(b) filed August 25, 2009. Applicant requests that the determination of patent term adjustment be corrected from 81days to 84 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent.[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

[1]Petition considered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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[2] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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**PO BOX 747**
**FALLS CHURCH VA 22040-0747**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Allan S. Law | : | |
| Application No.11/542,176 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | TO WITHFRAW |
| Attorney Docket No. 0260-0140PUS1 | : | 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 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 request is signed by James M. Slattery on behalf of all attorneys of record.

All attorney/agents of record in the instant application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and the new correspondence address is indicated below.

The application is currently awaiting a response to the non-final Office action mailed February 14, 2008.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Allan S. Law
498 Birch Street
New Glasgow, Nova Scotia
B2H 1Y1 Canada

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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 |
|---|---|---|---|
| 11/542,176 | 10/04/2006 | Allan S. Law | 0260-0140PUS1 |

**CONFIRMATION NO. 5666**

**POWER OF ATTORNEY NOTICE**

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

*OC000000030745680*

Date Mailed: 07/01/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

- 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.

/cdfriedman/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON, DC 20005

MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,443,574 :
Issue Date: October 28, 2008 :
Application No. 11/542,227 : ON PETITION
Filed: October 4, 2006 :
Attorney Docket No. 060767 :

This is a decision on the petition filed December 16, 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 April M. Wise at (571) 272-1642. 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.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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165 GARY FOX RUN
BENTLEYVILLE, OH 44022

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OCT 14 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| Jonathan Husni | : | |
| Application No. 11/542,255 | : | ON PETITION |
| Filed: October 4, 2006 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3735 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

| | | |
|---|---|---|
| **Applicant** | : Naoki Kotani | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646065 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/542,269 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/542,288 | 10/02/2006 | Ja Yol Lee | CU-5116 WWP | 3880 |

26530 7590 10/15/2008
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

| EXAMINER |
|---|
| GANNON, LEVI |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2817 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/15/2008 | 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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LADAS & PARRY LLP
224 South Michigan Avenue
Suite 1600
Chicago, IL 60604

In re Application of:
LEE *et al.*
Serial No.: 11/542,288
Filed: October 02, 2006
Attorney Docket No.: **CU-5116 WWP**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 11, 2008. That petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181, and to accept the included response as timely. No fee is required.

The petition is **GRANTED.**

The application became abandoned at midnight of May 12, 2008, for failure to timely file a response to the Requirement for Restriction mailed on February 12, 2008. No Notice of Abandonment has been mailed yet.

Petitioner asserts that the Requirement for Restriction mailed on February 12, 2008, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Requirement for Restriction was not received. A copy of the file docket where the Requirement for Restriction would have been entered was provided to support the petition. Also, a response to the Requirement for Restriction that petition found on Public Pairs on July 18, 2008 in included with the petition.

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 practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. 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 practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). A further review of the record reveals that the practitioner included a proper response to the Office action with the filing of the petition on May 19, 2004.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/542,288 | 10/02/2006 | Ja Yol Lee | CU-5116 WWP | 3880 |

26530 7590 10/15/2008
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

| EXAMINER |
|---|
| GANNON, LEVI |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2817 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/15/2008 | 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.

The petition and accompanying evidence, as supplemented, provides a sufficient showing that the practitioner did not receive the Requirement for Restriction mailed on February 12, 2008. Accordingly, the petition is granted. The application was not, in fact, abandoned.

The response to the Requirement for Restriction will be forwarded for entry by the Technology Center 2800 support staff. Then the examiner will be notified that the response is ready for consideration.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

John W. Cabeca, Director (Acting)
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : David Timperley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7628694 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,296 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **545** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/24/09

TO SPE OF : ART UNIT 2893

SUBJECT : Request for Certificate of Correction for Appl. No.: 11542308 Patent No.: 7486366 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**
[redacted]

*LAMONTE NEWSOME*
**Certificates of Correction Branch**
**703-308-9390 ext. 112**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| ☒ **Approved** | All changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** _____

Davienne Monbleau AU 2893


PAGE 2/2 * RCVD AT 4/29/2009 12:37:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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DEC 3 1 2007

**OFFICE OF PETITIONS**

In re Application of Oppenheimer et al. :
Application No. 11/542,310 : Decision on Petition
Filing Date: October 2, 2006 :
Attorney Docket No. 30610/39526C :

This is a decision on the petition under 37 CFR 1.181, filed July 31, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a "Notice to File Corrected Application Papers" on October 25, 2006. The Notice set a period for reply of two (2) months from the mail date of the Notice.

A reply to the October 25, 2006, was not matched with the application file. As a result, a Notice of Abandonment was mailed June 27, 2007. The Notice of Abandonment states the application is abandoned due to petitioner's failure to file a reply to the October 25, 2006 Notice.

Petitioner asserts a reply to the October 25, 2006 Notice was in fact timely filed. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating a "Response to Notice to File Corrected Application Papers dated October 25, 2006 w/ Two Copies of Substitute Specification (Marked-up and Clean Version)" was received by the USPTO on December 11, 2006.

The original reply filed December 11, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[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 the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded a reply to the October 25, 2006 Notice was timely filed in the Patent and Trademark Office but not matched with the application file.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Patent Application Processing will be informed of the instant decision and will review the copy of the reply originally filed December 11, 2006 in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Chris P. Grudzien | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624643 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,316 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **689** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**BUSKOP LAW GROUP, P.C.**
**1776 YORKTOWN**
**SUITE 550**
**HOUSTON TX 77056**

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NOV 14 2006

OFFICE OF PETITIONS

In re Application of
**DEGGES, et al.**
Application No. 11/542,317
Filed: October 03, 2006
Attorney Docket No. 1510.001

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 03, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a copy of Ms. Degges California Driver License indicating that she is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3611 for action on the merits commensurate with this decision.

Patricia Volpe
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/542,331 | 10/02/2006 | Yang-Ho Jung | AB-1911 US | 3683 |

7590 04/10/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

| EXAMINER |
|---|
| BUTLER, PATRICK NEAL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/10/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 NFARMER
10/05/2006 EAREGAY1 00000057 502257 11542331
02 FC:1111 500.00 CR



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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

| | |
|---|---|
| In re Application of:<br>WHITMAN, MICHAEL P.<br>Serial No. 11/542,363<br>Filed: Oct. 2, 2006<br>Docket: **11443/299**<br>Title: EXPANDING PARALLEL JAW DEVICE FOR USE WITH AN ELECTROMECHANICAL DRIVER DEVICE | DECISION ON PETITION UNDER 37 CFR § 1.181 |

This is a decision on the petition to withdraw the holding of abandonment filed on Aug. 18, 2008. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests a withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely file a response to the Final Rejection mailed on Jul. 16, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Jul. 25, 2008.

Petitioner asserts that a timely response to the Final Rejection was timely filed by facsimile on Jan. 7, 2008 with three-month extension of time fee. A Notice of Appeal was also timely filed by facsimile on Jan. 16, 2008. On Aug. 18, 2008, petitioner filed the current petition to withdraw the holding of abandonment with the Request for Continuing Examination. The RCE was accompanied by five months of extension of time. The petitioner has supplied a copy of the amendment and Petition for Extension of Time as well as a copy of a facsimile acknowledgement indicating a receipt date of Jan. 16, 2008. A signed copy of the certificate of facsimile transmission dated Jan. 16, 200 was included at the top of the Transmittal with the Notice of Appeal.

As the petitioner has provided convincing evidence that a timely reply to the Final Office action was received on Jan. 7, 2008 and Notice of Appeal on Jan. 16, 2008. The RCE was also timely filed on Aug. 18, 2008 with five moths of extension fee. There is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

Best Available Copy



In view of the above, the Notice of Abandonment mailed Jul. 25, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3721 for processing of the RCE and submission.

Petition Granted.

Frederick R. Schmidt, Director
Technology Center 3700

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CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

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JAN 29 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James D. Logan, et al. | : | |
| Application No. 11/542,379 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. G-27 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant Charles G. Call. 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 2617 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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**CHARLES G. CALL**
**215 W. HURON STREET**
**APT 2**
**CHICAGO, IL 60610-3331**

**COPY MAILED**

JAN 25 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| James D. Logan et al. | : | |
| Application No. 11/542,379 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. G-27 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 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 July 5, 2007.

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. 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.

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 after non-final, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received November 2, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Mitsuhiro Inouchi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663974 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,425 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/02/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ryoji Hagiwara | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7576340 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,434 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI OH 45215

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APR 29 2010
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In re Application of

Zimmerman, et al. :

Application No. 11/542,444

: DECISION ON PETITION

Filed: October 3, 2006

:

Attorney Docket No. 185356

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed August 19, 2009, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on September 20, 2008. A Notice of Abandonment was mailed on March 2, 2010.

The election filed February 24, 2010, is noted.

The application is being forwarded to Technology Center 1700, GAU 1794 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

K.A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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**2855 PGA BOULEVARD**
**SUITE 200**
**PALM BEACH GARDENS FL 33410**

| | | |
|---|---|---|
| In re Application of | : | |
| William E. Anspach III, et al | : | |
| Application No. 11/542,445 | : | ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. N1119A | : | |

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2006, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

Petitioner should be aware that the **middle initial** of inventor Eddy W. Del Rio is (**W** as indicated on the declaration submitted October 3, 2006) and (**H** as indicated on the Application Data Sheet submitted on November 7, 2006).

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This matter is being referred to the Technology Center AU 3731.

Karen Creasy

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/542,445 | 10/03/2006 | 3731 | 500 | N1119A | 4 | 2 |

**CONFIRMATION NO. 4384**
**CORRECTED FILING RECEIPT**
*OC000000022860091*
*OC000000022860091*

27320
NORMAN FRIEDLAND
2855 PGA BOULEVARD
SUITE 200
PALM BEACH GARDENS, FL 33410

Date Mailed: 03/12/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

William E. Anspach III, Stuart, FL;
Eddy W. Del Rio, Royal Palm Beach, FL;

**Power of Attorney:**

Norman Friedland--20070

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/989,786 11/16/2004 PAT 7,144,415

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/27/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/542,445**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Anchor/suture used for medical procedures

**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 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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

**COPY MAILED**

MAY 15 2008

**OFFICE OF PETITIONS**

In re Application of :
John M. Vasarhelyi :
Application No. 11/542,451 :
Filed: October 3, 2006 :
Attorney Docket No. 40655US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 3, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050 extension of time submitted with the petition on January 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2833 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Raye Lynn Daugherty
Greenberg Traurig
2450 Colorado Ave., Ste. 400 E
Santa Monica, CA 90404

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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**GREENBERG TRAURIG (PHX)**
**INTELLECTUAL PROPERTY**
**DEPARTMENT**
**2450 COLORADO AVENUE, SUITE 400E**
**SANTA MONICA CA 90404**

COPY MAILED

FEB 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John M. Vasarhelyi | : | |
| Application No. 11/542,451 | : | DECISION ON REQUEST FOR REFUND |
| Filed: October 3, 2006 | : | AND A CORRECTED DECISION ON |
| For: STRAIN RELIEF DEVICES | : | PETITION UNDER 37 CFR 1.137(B) |
| | : | |
| | : | |

This is a decision on the paper entitled, "REQUEST FOR RECONSIDERATION OF REQUEST FOR REFUND UNDER 37 C.F.R. 1.26" filed February 3, 2009. This is also a corrected decision on the petition to revive under 37 CFR 1.137(b), filed January 9, 2008.

The request is **GRANTED**.

A nonfinal rejection was mailed on April 2, 2007, which set a shortened statutory period of three(3) months to reply. A notice of abandonment was mailed on October 12, 2007. Petitioner filed a petition to revive under 37 CFR 1.137(b) on January 9, 2008. The petition was granted on May 15, 2008.

A review of the file records indicate that a reply to the nonfinal rejection mailed April 2, 2007, was received on October 9, 2007 (with a certificate of mailing dated October 2, 2007), with a request for an extension of time for three(3) months which would have made the reply timely.

*Petitioner's attention is directed to the below*:

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). **Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned),** the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In view of the above, the petition to revive filed January 9, 2008 was unnecessary since the application was not properly held abandoned. The notice of abandonment dated October 12, 2007 was premature. Therefore, the decision mailed May 15, 2008 is hereby **VACATED.**

The petition fee of $1,540 submitted on January 9, 2008, is being refunded to petitioner's deposit account no. 50-2638 as requested. Also, the request for three(3) month extension of time fee ($1,050) submitted on October 9, 2007 will be charged to deposit account no. 50-2638 as authorized.

The Office apologizes for any inconvenience caused petitioner in the above matter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitioner Examiner
Office of Petitions

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Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/542,466 | 10/03/2006 | 2828 | 1130 | COHO-6161 | 8 | 19 | 3 |

**CONFIRMATION NO. 4109**

28584
STALLMAN & POLLOCK LLP
353 SACRAMENTO STREET
SUITE 2200
SAN FRANCISCO, CA 94111

**FILING RECEIPT**

*OC000000021656276*

Date Mailed: 12/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Robert Henschke, East Hampton, CT;
Joel Fontanella, Tolland, CT;
Anthony J. DeMaria, West Suffield, CT;

**Power of Attorney:** The patent practitioners associated with Customer Number **28584**.

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/727,656 10/18/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/27/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/542,466**

**Projected Publication Date:** To Be Determined - pending completion of Corrected Papers

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Injection locking Q-switched and Q-switched cavity dumped CO2 lasers for extreme UV generation

**Preliminary Class**

372

## 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).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of
Uehara, et al.
Application No. 11/542,469
Filed: October 4, 2006
Attorney Docket No. 040894-7507

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 27, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2010. Accordingly, the date of abandonment of this application is April 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Fumiyasu Utsunomiya | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652454 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,486 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Bart Marc Luc Wattyn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610854 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,490 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Gary K. Price, Esq.
Bowers Harrison, LLP
25 N.W. Riverside Drive
P.O. Box 1287
Evansville IN 47706-1287

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MAR 24 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rhoades | : | |
| Application No. 11/542,503 | : | DECISION ON PETITION |
| Filed: October 3, 2006 | : | |
| Attorney Docket No. 11689.001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 20, 2008 for failure to timely pay the issue and publication fees on or before, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2007. Notice of Abandonment was mailed February 14, 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 required issue fee of and the publication fee, (2) the required petition fee; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gary K. Price, Esq.
Bowers Harrison, LLP
25 N.W. Riverside Drive
P.O. Box 1287
Evansville IN 47706-1287

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MAR 2 4 2008

**OFFICE OF PETITIONS**

In re Application of :
Rhoades :
Application No. 11/542,503 : DECISION ON PETITION
Filed: October 3, 2006 :
Attorney Docket No. 11689.001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 20, 2008 for failure to timely pay the issue and publication fees on or before, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2007. Notice of Abandonment was mailed February 14, 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 required issue fee of and the publication fee, (2) the required petition fee; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**DATE** : 4/3/08

**Paper No.:** ____

**TO SPE OF** : ART UNIT 3781

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/542525 Patent No: 7287665B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

SPE

3781
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES CA 90013-1024**

**COPY MAILED**

NOV 17 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Timothy J. SPEIGHT | : | |
| Application No. 11/542,514 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 562492007800 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2009.

The request is **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 no current correspondence address for future communications from the Office has been provided.

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 571-272-6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**LUNDBECK INC.**
**FOUR PARKWAY NORTH**
**DEERFIELD IL 60015**

MAILED

JAN 15 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bishr OMARY, et al | : | |
| Application No. 11/542,522 | : | ON PETITION |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. 213229-00701 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 22, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 20, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 23, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 2.

With respect to item 2: A review of the record shows that the petition in the above-identified application was accompanied by a credit card payment of $1540. As of October 2, 2008 a new fee schedule was posted and new fees should have been applied to any petition fee filed after the date listed above. The instant petition lacks a complete petition fee payment and an additional $80 is due to complete the required petition fee. No consideration on the merits can be given until the required fee deficiency is remitted.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**LUNDBECK INC.**
**FOUR PARKWAY NORTH**
**DEERFIELD IL 60015**

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MAR 01 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Bishr OMARY, et al | : | |
| Application No. 11/542,522 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. 213229-00701 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 22, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 20, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 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 payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**RONALD J. MEETIN**
**NATIONAL SEMICONDUCTOR CORP.**
**210 CENTRAL AVENUE**
**MOUNTAIN VIEW, CA 94043-4869**

MAILED

JAN 21 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **Tulsi MANICKAM**, et *al.* | : | |
| Application No. 11/542,532 | : | DECISION GRANTING PETITION |
| Filed: October 2, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **M-5789-3D US** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 November 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed November 18, 2009 and resubmitted November 20, 2009.

/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
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Karen Broglie | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619134 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,580 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : 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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P.O. Box 1450
Alexandria, VA 22313-1450
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David H. Chervitz
Riezman Berger, P.C.
7th Floor
7700 Bonhomme Avenue
St. Louis, MO 63105

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AUG 08 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Steven S. Schuver, et. al. | : | |
| Application No. 11/542,588 | : | DECISION GRANTING |
| Filed: October 3, 2006 | : | PETITION |
| Attorney Docket No. 24035-016 | : | |

This is a decision on the petition filed on November 2, 2006, requesting that the above-identified application be accorded a filing date of October 3, 2006, rather than the presently accorded date of October 4, 2006.

Petitioner alleges that the application was deposited in Express Mail Service on October 3, 2006. In support, the petition is accompanied by a copy of the USPS Track and Confirm search results, which shows that the package in question was enroute on October 3, 2006 at 8:09 pm at Hazelwood, MO 63042. It is noted that the Application Transmittal Letter contains the same Express Mail label number.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label (MPEP 513). However, while petitioner promptly filed the instant petition and provided the Office with evidence that shows the Express Mail number was listed on the Application Transmittal Letter prior to mailing of the correspondence, a true copy of the Express Mail mailing Label was not provided. Further, on August 2, 2007, petitioner David Chervitz, stated to the undersigned that the Express Mail Label for this application was never received back from the U.S. Postal Service. Therefore, petitioner must rely on "other official USPS notation", such as, the USPS Track and Confirm records, which corroborates petitioner's statement of deposit on October 3, 2006.

In view of the above, the evidence is convincing that the application was deposited with the U.S. Postal Service on October 3, 2006. Accordingly, 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 **October 3, 2006, and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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SEP 13 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Marvin, McMurtrey, and LeSage | : | |
| Application No. 11/542,607 | : | Decision Refusing to Accord |
| Filed: October 2, 2006 | : | Status Under 37 CFR 1.47(a) |
| Attorney Docket No. M142.12-0034 | : | |
| For: Test Rack Adapter For Hard | : | |
| Disk Drive | : | |

This is a decision on the petition under 37 CFR 1.47(a), filed April 27, 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. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy item (2) above.

The declaration filed by petitioner only lists the name of two of the inventors. The declaration does not include Lesage's name, citizenship, mailing address, or residential address.

A supplemental declaration, signed by Marvin and McMurtrey, should be filed. The supplemental declaration should include the name of all three inventors, and include Lesage's citizenship, last known mailing address, and last known residential address.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Application of :
Marvin, McMurtrey, and LeSage :
Application No. 11/542,607 :
Filed: October 2, 2006 :
Attorney Docket No. M142.12-0034 :
For: Test Rack Adapter For Hard :
Disk Drive :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 5, 2007.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55440-1022

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JUL 1 0 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Peter J. de Groot | : | |
| Application No. 11/542,617 | : | DECISION GRANTING PETITION |
| Filed: October 3, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 09712-332002 / Z-557 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 5, 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 June 1, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2886 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

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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MAY 28 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of<br>Darren L. Arnett<br>Application Number: 11/542653<br>Filing Date: 10/02/2006<br>Attorney Docket Number: 62664-8001.US01 | :<br>:<br>:<br>:<br>:<br>: | ON PETITION |

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 7, 2009, for failure to timely submit a response to the non-final Office action mailed on July 6, 2009, 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 4, 2010.

---

[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)).

Receipt of the amendment filed on March 5, 2010, is acknowledged.

This application is being referred to Technology Center Art Unit 3764 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David S. Mathews | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607415 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,672 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Alexander Gaiger, et al. | : | |
| Application No. 11/542,681 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | |
| Attorney Docket No. 210121.494C5 | : | |

This is a decision on the petition under 37 CFR 1.181, filed October 6, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeff Hundley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed October 23, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 6, 2009.

Petitioner states that the Office action dated October 23, 2008 was not received.

A review of the written record does indicate an irregularity in the mailing of the Office action of October 23, 2008. In this regard, the Office action in question was returned to the U.S. Patent and Trademark Office on October 27, 2008 by the U.S. Postal Service for some unknown reason. Therefore the record supports a conclusion that the non-final Office action was not received by petitioner.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1642 for re-mailing the Office action of October 23, 2008. The period for reply will run from the mailing date of the Office action.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**PAUL, HASTINGS, JANOFSKY & WALKER, LLP**
**875 15TH STREET, NW**
**WASHINGTON DC 20005**

**MAILED**

FEB 27 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Huafeng WEN | : | |
| Application No. 11/542,689 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO WITHDRAW |
| Attorney Docket No. 71784.04201.CON1 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2009.

The request is **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 Martin Bader on behalf of the attorneys of record associated with Customer No. 36183.

The attorneys of record associated with Customer No. 36183 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 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: ALIGN TECHNOLOGY, INC.
JOHN WAGNER, WAGNER BLECHER LLP,
WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

cc: MARTIN R. BADER, ESQ.
P.O. BOX 919092
SAN DIEGO, CA 92191

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OCT 0 9 2008

**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Ou, et al.
Application No. 11/542,704
Filed: October 3, 2006
Attorney Docket No. 62019.8001US
For: ELECTRONIC DEVICES WITH SLIDING AND TILTING MECHANISMS, AND ASSOCIATED METHODS

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 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 Restriction Requirement, mailed November 1, 2007, which set a one month or thirty day shortened statutory period (whichever was longer) 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 December 2, 2007. A Notice of Abandonment was mailed on June 12, 2008.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 2839 for consideration of the election filed on June 23, 2008.

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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**THOMAS G. FERENCE**
**38 THASHA LANE #C6**
**ESSEX JUNCTION, VT 05452-4508**

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JAN 18 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **JOHNSON** | : | |
| Application No. 11/542,709 | : | DECISION ON PETITION |
| Filed: October 4, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. JOHNS-NON-01 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 2, 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 birth certificate of inventor Raymond K. Johnson, Sr., attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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 3677 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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XEROX CORPORATION
C/O WIGGIN AND DANA LLP
WIGGIN AND DANA LLL
ONE CENTURY TOWER, 265 CHURCH STREET
NEW HAVEN CT 06510-7001

MAILED
OCT 14 2009
OFFICE OF PETITIONS

Applicant: Shriram V.S. Revanker, et al.
Appl. No.: 11/542,717
Filing Date: October 4, 2006
Title: AUTOMATIC INDEXING OF PRINTED DOCUMENTS
Attorney Docket: 102759-10020050224-US-NP
Pub. No.: US 2008/0083823 A1
Pub. Date: April 10, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 16, 2008 and March 30, 2009, 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 after the end of paragraph (0036), before the claims.

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 phrase "What is claimed is" missing from the end of paragraph (0036), before the claims is not a material Office error under 37 CFR 1.221. The error 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 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 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.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Brian Donald Hart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616555 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,721 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **490** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**BROOKS KUSHMAN P.C.**
**1000 TOWN CENTER**
**TWENTY-SECOND FLOOR**
**SOUTHFIELD MI 48075**

| | | |
|---|---|---|
| In re Application of | : | |
| Carsten Neumann et al. | : | |
| Application No. 11/542,727 | : | DECISION GRANTING PETITION |
| Filed: October 4, 2006 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. KOA 0278 PUS (R 1588) | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 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 13, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Brian Donald Hart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626969 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,739 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **396** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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**

**Hansra Patent Services**
**4525 Glen Meadows Place**
**Bellingham, WA 98226**

In re Application of :

Marc Hertzberg :
Application No. 11/542,748 : DECISION ON PETITION
Filed: October 3, 2006 : TO WITHDRAW
Attorney Docket No. 9458-96/STL078621 : FROM RECORD

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 7, 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 Tejpal S. Hansra on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc Hertzberg**
**106 Willard Grant Road**
**Sudbury, MD 01776**

cc: **Seagate Technology LLC**
**Intellectual Property—SHK2LG**
**1280 Disc Drive**
**Shakopee, MN 55379**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/542,748 | 10/03/2006 | Marc Hertzberg | 9458-96/STL078621 |

**CONFIRMATION NO. 3526**

*OC000000024391541*

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 06/15/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Terri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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**Heller Ehrman, LLP**
**4350 La Jolla Village Drive**
**7th Floor**
**San Diego, CA 92122**

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OCT 0 9 2008

**OFFICE OF PETITIONS**

In re Application of
Rene S. Hubert et al.
Application No. 11/542,758
Filed: October 3, 2006
Attorney Docket No. 39766-0163 R1C2

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 August 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. 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 Leslie B. Overman, on behalf of all attorneys/agents associated with customer number 25213. All attorneys/agents 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. Accordingly, all correspondence will be mailed to the first signing inventor at the address noted on the oath and declaration. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If this firm would like to receive future correspondence, the proper power of attorney documents must be submitted or if an assignee has intervened compliance with 37 CFR 3.73(b) must be satisfied.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rene S. Hubert
1644 N. Occidental Blvd.
Los Angeles, CA 90026

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/542,758 | 10/03/2006 | Rene S. Hubert | 39766-0163 R1C2 |

**CONFIRMATION NO. 3878**

**POWER OF ATTORNEY NOTICE**

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

*OC000000032512722*

Date Mailed: 10/09/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/20/2008.

- 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.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Takatoshi Tanabe | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603216 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/542,770 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2006 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **621** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**William S. Lovell**
**2701 NW Hwy. 101 #43**
**Lincoln City OR 97367**

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| | | |
|---|---|---|
| In re Application of | : | |
| William Stuart Lovell | : | |
| Application No. 11/542,773 | : | DECISION ON PETITION |
| Filed: October 2, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. LOVE05 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant declaring that he is 65 years of age older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2876 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

MAILED

MAY 27 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Helen Elizabeth Rich | : | |
| Application Number: 11/542802 | : | ON PETITION |
| Filing Date: 10/04/2006 | : | |
| Attorney Docket Number: 92.1059 | : | |
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This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 17, 2009, for failure to timely submit a response to the final Office action mailed on June 16, 2009, 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 January 20, 2010.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioner has filed a Request for Continued Examination (RCE), and an amendment as the submission required under 37 CFR 1.114.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

This application is being referred to Technology Center Art Unit 2877 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

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Cc:

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).