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MAY 29 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Michael J. GEILE, et al.
Serial No.: 11/747,577
Filed: May 11, 2007

Title: **METHOD FOR VARIABLE FORWARD ERROR CORRECTION IN A MULTI-POINT TO POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 11, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 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, 5.3, and 6.3.

For these reasons cited above, 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 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/ subclasses: 370/ 486, 494, and 495.

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because section 9(C) fails to provide a "detailed explanation of how ***each of the claims*** are patentable over each of the references cited with particularity required by 37 CFR 1.111(b) and (c)" (emphasis added). Petitioner does not provide a detailed explanation of patentability of all claims (including the dependent claims) with respect to each reference and if claims do not stand or fall together, how each claim (including the dependent claims) is patentably distinct over the cited prior art in combination with the other cited references. **Since petitioner has only argued the patentability of the broadest, independent claims and no separate reasons for patentability are argued in regard to any of the dependent claims, it is presumed that petitioner believes that all claims stand or fall together. If this is not accurate, then any request for reconsideration must provide a detailed explanation in regard to *each of the claims* as set forth in item 6.3 above.**

If any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5.2 and 5.3 above, and the Preexamination Search Document must be amended to indicate such; a new Information Disclosure Statement should be filed to cite any newly found prior art, and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above; as well as the necessary updated discussion of patentability for each of the dependent claims (or a statement that claims stand or fall together) as set forth above.

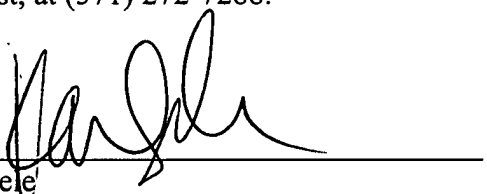
DECISION

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, Quality Assurance Specialist, at (571) 272-7288.



Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

Applicants	Geile et al.	**Response to Decision on Petition Under 37 C.F.R. 1.102 and Request for Reconsideration**
Serial No.	11/747,577	
Filing Date	05/11/2007	
Confirmation No.	4763	
Examiner	Not yet known	
Attorney Docket No.	100.070US67	
Title: METHOD FOR VARIABLE FORWARD ERROR CORRECTION IN A MULTI-POINT TO POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM		

Commissioner for Patents
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The Decision on Petition to Make Special, mailed on May 29, 2007, has been reviewed. In the Decision, the Applicants Petition to Make Special was denied. Please accept the following revised documents submitted on even date herewith in support of the accelerated prosecution of application serial number 11/747,577.

1) A Pre-Examination Search Document revised to correct deficiencies identified in the Decision on Petition to Make Special. Specifically, the Pre-Examination Search Document now includes searches under the following class/ subclass areas:

370/ 486, 494 and 495 – Completed: June 13, 2007

The Applicant has identified one additional relevant art reference which has been included in an amended Accelerated Examination Support Document and Information Disclosure Statement filed herewith.

2) An Accelerated Examination Support Document having:

a revised section 9(A), "References Deemed Most Closely Related" identifying the additional reference Olafsson, US 5,768,309;

a revised section 9(B), "Identification of Limitations Disclosed by References" amended to include the additional reference Olafsson, US 5,768,309;

a revised section 9(C) "Detailed Explanation of Patentability" amended to discuss the additional reference Olafsson, US 5,768,309; and

additional minor corrections.

3) A supplemental Information Disclosure Statement citing the additional reference Olafsson, US 5,768,309.

Based on the above revised submissions, reconsideration of the May 29, 2007 Decision on Petition to Make Special is hereby requested.

If necessary, please charge any additional fees or credit overpayments to Deposit Account No. 502432.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at 612-455-1680.

Respectfully submitted,

/David N. Fogg/

Date: June 25, 2007

David N. Fogg
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In re Application of:
Michael J. Geile, et al.
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Filed: May 11, 2007

Title: **METHOD FOR VARIABLE FORWARD ERROR CORRECTION IN A MULTI-POINT TO POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM**

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 June 25, 2007 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). This decision is also responsive to the Information Disclosure Statement filed July 9, 2007.

All of the requirements to correct the deficiencies outlined in the petition decision mailed May 29, 2007 have been met.

It should be noted that no separate reasons for patentability have been argued in regard to dependent claims 2-4, 6-13, and 15-19. Therefore, it is presumed that petitioner believes that these claims stand or fall together with the independent claims from which they depend.

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 CFR 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 CFR 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 CFR 1.181, 182 or 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 Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista M. Zele/

Quality Assurance Specialist
Technology Center 2600
Communications

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JUN 0 9 2008

In re Application of :
Michael Quinn :
Application Number: 11/747592 : ON PETITION
Filing Date: 05/11/2007 :
Attorney Docket Number: 67318-001PUS2 :

This is a decision on the petition to withdraw holding of abandonment filed on March 31, 2008.

The petition is **DISMISSED**.

This application became abandoned on August 1, 2007, for failure to timely reply to the Notice to File Corrected Application Papers mailed on May 31, 2007, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonmenment was mailed on February 7, 2008.

Petitioner asserts that the Notice to File Corrected Application Papers was never received because it was mailed to an old address. Specifically, petitioner argues that the USPTO incorrectly utilized the address in the declaration, which was a copy of the declaration filed in a prior application to which this application claims the benefit, instead of the Customer Number specified in EFS-Web when the application was filed.

A review of the record reveals that the Notice to File Corrected Application Papers was mailed to the address in the declaration, and was subsequently returned to the Office as undeliverable.

MPEP 201.06(c) states:

> 37 CFR 1.63(d)(4) provides that where the power of attorney or correspondence address was changed during the prosecution of the prior application, the change in power of attorney or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney or correspondence address which occurred during the prosecution of the prior application.

MPEP 601.03 states, in pertinent part:

> Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).
>
> ...
>
> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

37 CFR 1.33(a) states:

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

Petitioner's argument has been considered, but is not well taken. As stated above, 37 CFR 1.63(d)(4) requires applicants to utilize care to ensure that the proper correspondence address is specified when an oath or declaration from a prior-filed application is filed in a continuation or divisional application. A review of the record reveals that the declaration filed on May 11, 2007, stated to "Please send correspondence … to the First Inventor below." No instruction to use a different correspondence address is located in any of the other application papers filed on May 11, 2007.

Petitioners argument that the USPTO should have utilized the address associated with the Customer Number utilized to file the application via EFS-Web is also unpersuasive. At the outset, nowhere in the statute, regulation, or MPEP is it stated that the Customer Number of the PAIR application user will supersede an explicit designation of a correspondence address. Furthermore, merely filing an application in EFS-Web with the PAIR user's

Customer Number does not constitute a change of correspondence address within the meaning of 37 CFR 1.63(d)(4) and MPEP 601.03. Rather, it is applicant's responsibility to ensure that the correct correspondence address is specified in the application.

Lastly, none of the documents filed instructed the USPTO to use the address associated with the PAIR user's Customer Number as the correspondence address. Rather, the declaration pursuant to 37 CFR 1.63 filed on May 11, 2007, explicitly specified an address to use, and that address was utilized by the USPTO. That the specified address was no longer valid is the fault of the applicant, not the USPTO.

In summary, the showing of record is that petitioners failed to specify the proper correspondence address. A failure to provide a correct correspondence address is an avoidable mistake. Withdrawal of the holding of abandonment is not appropriate when the abandonment resulted from an avoidable mistake on the part of petitioner. As the showing of record suggests that the application became abandoned because of a failure of petitioner to provide a proper correspondence address, rather than a mistake on the part of the Office, the holding of abandonment will not be withdrawn. The petition is therefore dismissed.

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application. A copy of the petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

[1] 37 CFR 1.181(f).

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Sep-08

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

COPY MAILED

SEP 12 2008

In re Application of :
Michael Quinn :
Application Number: 11/747592 : ON PETITION
Filing Date: 05/11/2007 :
Attorney Docket Number: 67318-001PUS2 :

This is a decision on the renewed petition to withdraw holding of abandonment filed on March 31, 2008. As petitioner additionally requests consideration, in the alternative, as a petition to revive "for unavoidable abandonment" and, in the alternative, for "unintentional abandonment", the petition is additionally treated as petitions filed, in the alternative, under 37 CFR 1.137(a) and (b).

The renewed petition to withdraw the holding of abandonment is **DISMISSED**.

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

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

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This application became abandoned on August 1, 2007, for failure to timely reply to the Notice to File Corrected Application Papers mailed on May 31, 2007, which set a two (2) month shortened 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 7, 2008. The petition filed on March 31, 2008 to withdraw the holding of abandonment was dismissed on June 9, 2008.

Petitioner again asserts that that the that the USPTO incorrectly utilized the address in the declaration, which was a copy of the declaration filed in a prior application to which this application claims the benefit, instead of the Customer Number specified in EFS-Web when the application was filed.

In particular, petitioner argues that

> The mere inclusion, *in a paper being filed for another purpose*, [**the "paper" - entry of the Customer Number in the "Correspondence Address" filed in EFS-Web was not *for another purpose* - its *only* purpose was for designating the Correspondence Address]** of an address which is *different from the previously provided correspondence address*, **[there was no "previously provided correspondence address" because this was the very first thing filed]** without mention of the fact that an address change is being made *would not ordinarily be recognized* or deemed as instructions to change the correspondence address on the file record." **[No "change" was being made, but the correspondence address was in fact "recognized as a correspondence address and was *confirmed* in the Receipt generated by the USPTO.]** MPEP 601.03 is concerned with whether the USPTO will catch a change in correspondence address, which was certainly not the problem here. The customer number was actually received and acknowledged.
>
> (emphais in original)

Petitioner's argument has been considered, but is not persuasive. At the outset, petitioner's argument appears to be that the entry of the Customer Number in EFS-Web is analogous to filing a paper containing a correspondence address. This argument is not well taken, however, as no paper was actually filed. Assuming, *arguendo*, that the electronic entry of the correspondence address is considered the equivalent of filing a paper, petitioner's argument is unpersuasive in view of MPEP 601.03, as stated *infra*.

At the outset, the purpose of the Acknowledgement Receipt is to establish the date of a successful submission of the associated documents. See Official Gazette notice of May 21, 2002. The Acknowledgement Receipt states that it evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. In this regard, the documents themselves did not contain the correct correspondence address. Rather, the documents filed on May 11, 2007, specifically the declaration, contained a request to use the first named inventor's address as the correspondence address.

Petitioner's argument that the address entered electronically is "confirmed" by the USPTO is similarly unpersuasive. While EFS-Web will fill in the correspondence address with the address that has been associated with the customer number for that application, if the applicant indicates a customer number when prompted for the correspondence address, nowhere is it stated in the rules, regulations, or statute that an address entered in EFS-Web on filing will take precedence over a written request to change the correspondence address located in the official file, or that the USPTO will not use the address designed in the application papers as the correspondence address.

Furthermore, MPEP 601.03 is directed at situations whether the transmittal letter or other submission of application papers to the Office contains an address, but the oath or declaration specifically requests that a separate correspondence address be used. This is analogous to the situation here: petitioners filed the application by EFS-Web and included a Customer Number as the address, but the application papers themselves contained a specific direction to use a different correspondence address.

As stated previously, 37 CFR 1.63(d)(4) requires applicants to utilize care to ensure that the proper correspondence address is specified when an oath or declaration from a prior-filed application is filed in a continuation or divisional application.

In summary, the showing of record is that petitioners failed to properly indicate the current correspondence address. A failure to provide a correct correspondence address is an avoidable mistake. Withdrawal of the holding of abandonment is not appropriate when the abandonment resulted from an avoidable mistake on the part of petitioner. As the showing of record suggests that the application became abandoned because of a failure of petitioner to provide a proper correspondence address, rather than a mistake on the part of the Office, the holding of abandonment will not be withdrawn. The petition is therefore again dismissed.

PETITION UNDER 37 CFR 1.137(a)

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

> (1) the required reply, unless previously filed. 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 § 1.17(l);
>
> (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

In regards to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

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

The showing of record, as stated previously, is that petitioner failed to provide notice of the proper correspondence address when filing the application. Specifically, although petitioner entered the current address by designated a Customer Number when filing the application by EFS-Web, the oath or declaration contained within the application stated "Please send correspondence…to the First inventor below." No other paper designated a correspondence address was filed with the application.

As discussed previously, MPEP 601.03 states, in pertinent part that applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).

A review of the record reveals that no paper was filed indicating which address should be used, save the declaration which indicated that all correspondence should be sent to the first named inventor's address as listed there in. As such, the Office was simply following petitioner's instructions in using the address contained in the declaration present on filing as the correspondence address.

A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay.[3]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the

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

[3] See Ray v. Lehman, 55 F.3d 606, 34 UPSQ2d 1786 (Fed. Cir. 1995).

consequences of those actions or inactions.[4] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[5]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6] 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: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioner's counsel in failing to properly identify the correspondence address in the application as filed rather than as a result of unavoidable delay. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

PETITION UNDER 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

---

[4] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[5] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[6] Id.

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the substitute specification and replacement drawings filed with the subject petition is acknowledged.

As petitioner requested and received consideration under both the unavoidable standard of 37 CFR 1.137(a) and the unintentional standard of 37 CFR 1.137(b), petitioner will be charged the fees for filing petitions under 37 CFR 1.137(a) and 1.137(b).

The application will be referred to the Office of Patent Application Processing for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LATIMER INTELLECTUAL PROPERTY LAW, LLP
P.O. BOX 711200
HERNDON, VA 20171

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JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Andrew T. DUGGLEBY et al. :
Application No. 11/747,627 : DECISION ON PETITION
Filed: May 11, 2007 : TO WITHDRAW
Attorney Docket No. VTIP-111 : FROM RECORD
:

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 21, 2010.

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

A review of the file record indicates that the power of attorney to Latimer Intellectual Property Law, LLP has been revoked by the assignee of the patent application on April 22, 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- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

NEW RIVER VALLEY INTELLECTUAL PROPERTY LAW
P.O. BOX 10944
BLACKSBURG VA 24062

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ROTHWELL FIGG ERNST & MANBECK PC
1425 K STREET NW
SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Watson, et al.	:	DECISION ACCORDING STATUS
Application No. 11/747,634	:	UNDER 37 CFR 1.47(a)
Filed: May 11, 2007	:	
Attorney Docket No. 2762-170	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 21, 2007.

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

Petitioner has demonstrated that inventors Jobst and Gilkes have refused to sign the declaration after having been presented with the application papers. Specifically, petitioner has demonstrated that copies of the application papers were forwarded to the last known addresses of Jobst and Gilkes on August 24, 2007, but to date no executed declaration has been received. Moreover, the papers were not returned as undeliverable.

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 inventors at the last known addresses provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KAI GILKES
77 PLOWER WAY
LONDON, ENGLAND
UK
SE16 7TS

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OFFICE OF PETITIONS

In re Application of :
Robert C. Watson, Kai Gilkes, Norbert :
Jobst, Sriram Rajan :
Application No. 11/747,634 :
Filed: May 11, 2007 :
Title: Collateralized Debt Obligation :
Evaluation System and Method :

LETTER

Dear Mr. Gilkes:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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SANDOAKS, MARLPIT HALL, KENT
EDENBRIDGE, ENGLAND
UK
TN8 6JK

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OFFICE OF PETITIONS

In re Application of :
Robert C. Watson, Kai Gilkes, Norbert :
Jobst, Sriram Rajan :
Application No. 11/747,634 :
Filed: May 11, 2007 : LETTER
Title: Collateralized Debt Obligation :
Evaluation System and Method :

Dear Mr. Jobst:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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OFFICE OF PETITIONS

In re Application of	:	
Victor Gabrielle	:	
Application No. 11/747,660	:	DECISION ON PETITION
Filed: May 11, 2007	:	TO WITHDRAW
Attorney Docket No. 31860-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 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 Deborah Peacock on behalf of all attorneys of record who are associated with customer No. 05179.

All attorneys/agents associated with the Customer Number 05179 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/
April M. Wise
Petitions Examiner
Office of Petitions

cc: VICTOR GABRIELLE
10515 PASO RINO PLACE SW
ALBUQUERQUE, NM 87121-8962

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
11/747,660	05/11/2007	Victor Gabrielle	31860-DIV

CONFIRMATION NO. 4926

POWER OF ATTORNEY NOTICE

5179
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

Date Mailed: 10/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2008.

- 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.

/amwise/

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/747,679	05/11/2007	Yoshihiro KIKUCHI	305943US2SRD DIV	4961

7590 11/09/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DASTOURI, MEHRDAD

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
11/09/2009	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

Refund Ref:
11/06/2009 0030076530

Credit Card Refund Total: $500.00

Am Exp...: XXXXXXXXXXX1006

Adjustment date: 11/06/2009 NFARMER
05/14/2007 INTEFSW 00000721 11747679
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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MAGINOT MOORE & BECK LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of :
Woodall, et al. :
Application No. 11/747,706 : DECISION REFUSING STATUS
Filed: May 11, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2036-0001 :

This is in response to the petition under 37 CFR 1.47(a), filed August 16, 2007.

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

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration **after having been presented with the application papers (specification, claims and drawings)**; (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy item (1).

As to item (1), the petition and accompanying evidence have been carefully considered. However, it has not been demonstrated that a copy of the application papers (comprising the specification, claims, and drawings) was sent to the non-signing inventor. Rather, the petition only establishes that copies of the declaration were forwarded to the last known address of non-signing inventor Woodall.

Regarding an inventor's refusal to join in the application, Manual of Patent Examining Procedure § 409.03(d) states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956).

Accordingly, on renewed petition, petitioner should establish that a copy of the application papers were forwarded to Woodall. If the application papers were previously forwarded to Woodall, petitioner can state such for the record.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Woodall, et al.	:	
Application No. 11/747,706	:	DECISION ACCORDING STATUS
Filed: May 11, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 2036-0001	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 11, 2007.

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

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 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

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 the Office of Patent Application Processing for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID B SALZMAN
4407 ELM ST
CHEVEY CHASE MD 20875

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OFFICE OF PETITIONS

In re Application of :
Jerry M. Woodall, Eric S. Harmon, Kurt :
C. Koehler, Jeffrey T. Zhebarth, :
Charles R. Allen, Yuan Zheng, Jong- :
Hyeok Jeon, George H. Goble, David B. : LETTER
Salzman :
Application No. 11/747,706 :
Filed: May 11, 2007
Title: Power Generation from Solid Aluminum

Dear David B. Salzman:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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

PERKINS COIE LLP
PATENT-SEA, P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of :
Genevieve MAK, et al :
Application No. 11/747,729 : DECISION ON PETITION
Filed: May 11, 2007 : TO WITHDRAW
Attorney Docket No. 607838003US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

The request is **APPROVED**.

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

The request was signed by Christopher J. Daley-Watson on behalf of the attorneys of record associated with Customer No. 25096.

The attorneys of record associated with Customer No. 25096 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: COGNETO DEVELOPMENT INC.
330-1085 HOMER ST.
VANCOUVER, CANADA V6B 1J4

cc: COGNETO, LTD,
ATT: ADRIAN BEESTON
15 POLAND AVENUE, 3D FLOOD
LONDON W1F 8QE
UNITED KINGDOM

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHELDON MAK ROSE & ANDERSON, PC
100 CORSON STREET , THIRD FLOOR
PASADENA, CA 91103-3842

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SEP 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald P. **FEAVER,** et al	:	
Application No. 11/747,741	:	DECISION ON PETITION
Filed: May 11, 2007	:	TO WITHDRAW
Attorney Docket No. 14242-2	:	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 July 14, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 David A. Farah on behalf of all attorneys of record associated with Customer Number 23676.

All attorneys of record associated with Customer Number 23676 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 the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CRAIG A. ASTILL
P.O. BOX 3051
PRAHRAN EAST VIC 3181
AUSTRALIA

cc: IP3 SYSTEMS, LTD.
LEVEL 16/499 ST. KILDA ROAD
MELBOURNE, VICTORIA 3004
AU

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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

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In re Application of :
Fish :
Application No. 11/747,745 : DECISION
Filed: 11 May, 2007 :
Attorney Docket No. 06975-470002 :

This is a decision on the petition filed on 22 April, 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."

In the alternative, Petitioner may file a petition under 37 C.F.R. §1.137(b) to revive an application abandoned due to unintentional delay. (Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b).

A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

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

As to the Request to Withdraw the Holding of Abandonment

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based on unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 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.

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office. Petitioner has failed to make the showings of search and non-discovery with the documentary presentations discussed herein (and set forth in the footnote,

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Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 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.

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infra, and the showings, *inter alia*, as to calendaring, again with documentary support—all in support of the averment of nonreceipt..

Petitioner makes no statement of search, provides no discussion as to docketing and/or calendaring, and does not direct the Office to the elements that prove her case, carry her burden within the documentary evidence submitted but instead elects to toss at the Office almost 150 pages of documents and say in effect: go look for yourself.

Where this not such an excellent opportunity for Petitioner, whose registration number suggests only recent registration to practice before the Office, to familiarize herself with the requirements of the guidance in the Commentary at MPEP §711.03(c)(A) and/or (B), as it is set forth on the website (and included for reference herein), as well as with her duties to inquire and for continuing candor to and before[2] the Office, this might appear to be little more than a flagrant dismissal by Petitioner of her responsibility to the Office for satisfying those requirements. However, the Office prefers at this time to view the situation as the former rather than the latter. Therefore, Petitioner is reminded that the guidance in the Commentary at MPEP §711.03(c)(A) provides in pertinent part:

> 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).

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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).

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

And Petitioner must comply with these requirements.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice to File Missing Parts mailed on 11 June, 2007, with reply due absent extension of time on or before 11 August, 2007.

The application went abandoned by operation of law after midnight 11 August, 2007.

The Office mailed the Notice of Abandonment on 22 February, 2008.

On 22 April, 2008, Petitioner filed the instant petition averring, *inter alia*, non-receipt, however, Petitioner failed to comply with the express requirements for showing required herein as set forth at MPEP 711.03(c)(A), including but not limited to the statement of search and nondiscovery, provides no discussion as to docketing and/or calendaring, and does not direct the Office to the elements that prove her case and carry her burden within the documentary evidence submitted. Petitioner chose instead to drop into the record almost 150 pages of documents with little or no explanation as to their nature and function within the operations of her office applications processing/prosecution system and the correspondence component thereof so to handle and process such correspondence for timely and proper replies to Office actions.
Therefore, Petitioner failed to demonstrate that the Office action in question was not received and docketed, and that it therefore does not appear either on the application docket sheet or on the due-date calendar (11 August, 2007) for reply.

Thus, Petitioner does not appear as of this writing to have satisfied the requirements discussed at MPEP §711.03(c), set forth *in extenso* herein and always available online at www.uspto.gov.

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

make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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

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 courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[4] (*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 has not complied with the showing requirements set forth at MPEP §711.03(c)(I)(A) and/or (B).

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

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

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

The centralized facsimile number is **(571) 273-8300.**

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's 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

Commissioner for Patents
United States Patent and Trademark Office
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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Fish :
Application No. 11/747,745 : DECISION
Filed: 11 May, 2007 :
Attorney Docket No. 06975-470002 :

This is a decision on the petition filed on 14 October, 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

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation). As evidence of nonreceipt Petitioner points to a firm due date docket sheet, however, that report, at Page 1, evidences a due date reply of 11 August, 2008, which would have been the due date of the reply to the Notice of Missing Parts, and while the planned action is the

submission of an information disclosure statement, that planned reply would have been consistent with Petitioner's other reply duties to the Office on that day. Thus, Petitioner's own showing suggests that the Office action was received and docketed—in only under a partial listing of the nature of the reply due.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice to File Missing Parts mailed on 11 June, 2007, with reply due absent extension of time on or before 11 August, 2007.

The application went abandoned by operation of law after midnight 11 August, 2007.

The Office mailed the Notice of Abandonment on 22 February, 2008.

On 22 April, 2008, Petitioner filed the instant petition averring, *inter alia*, non-receipt, however, Petitioner failed to comply with the express requirements for showing required herein as set forth at MPEP 711.03(c)(A), including but not limited to the statement of search and nondiscovery, provides no discussion as to docketing and/or calendaring, and does not direct the Office to the elements that prove her case and carry her burden within the documentary evidence submitted. Petitioner chose instead to drop into the record almost 150 pages of documents with little or no explanation as to their nature and function within the operations of her office applications processing/prosecution system and the correspondence component thereof so to handle and process such correspondence for timely and proper replies to Office actions. Therefore, Petitioner failed to demonstrate that the Office action in question was not received and docketed, and that it therefore does not appear either on the application docket sheet or on the due-date calendar (11 August, 2007) for reply. The petition was dismissed on 2 September, 2008, for Petitioner's failure to make the showing required.

On 14 October, 2008, Petitioner renewed the petition, however, that report, at Page 1 and under the listing for Attorney Docket No. 06975-470002, evidences a due date reply of 11 August, 2008, which would have been the due date of the reply to the Notice of Missing Parts, and while the planned action is the submission of an information disclosure statement, that planned reply would have been consistent with Petitioner's other reply duties to the Office on that day. Thus, Petitioner's own showing suggests that the Office action was received and docketed—in only under a partial listing of the nature of the reply due.

Not only does Petitioner fail as of this writing to satisfy the requirements discussed at MPEP §711.03(c), but her own documentary showing strongly suggests that the Notice to File Missing Parts mailed on 11 June, 2008, was received and docketed—if only, as indicated above, under a partial listing of the reply due.

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]

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 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 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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[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).

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of 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

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

COPY MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Fish :
Application No. 11/747,745 : DECISION
Filed: 11 May, 2007 :
Attorney Docket No. 06975-470002 :

This is a decision on the petition filed on 9 February, 2009, supplemented on 11 March, 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; or in the alternative to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.181 is **GRANTED**; the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as 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.)*

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:

Petitioner failed to reply to the Notice to File Missing Parts mailed on 11 June, 2007, with reply due absent extension of time on or before 11 August, 2007.

The application went abandoned by operation of law after midnight 11 August, 2007.

The Office mailed the Notice of Abandonment on 22 February, 2008.

On 22 April, 2008, original Petitioner filed a petition averring, *inter alia*, non-receipt, however, Petitioner failed to comply with the express requirements for showing required herein as set forth at MPEP 711.03(c)(A), including but not limited to the statement of search and nondiscovery, provided no discussion as to docketing and/or calendaring, and did not direct the Office to the elements that proved her case and carried her burden within the documentary evidence submitted. Petitioner chose instead to place into the record almost 150 pages of documents with little or no explanation as to their nature and function within the operations of her office applications processing/prosecution system and the correspondence component thereof so to handle and process such correspondence for timely and proper replies to Office actions. Therefore, Petitioner failed to demonstrate that the Office action in question was not received and docketed, and that it therefore does not appear either on the application docket sheet or on the due-date calendar (11 August, 2007) for reply. The petition was dismissed on 2 September, 2008, for Petitioner's failure to make the showing required.

On 14 October, 2008, Petitioner renewed the petition, however, that report, at Page 1 and under the listing for Attorney Docket No. 06975-470002, evidences a due date reply of 11 August, 2008, which would have been the due date of the reply to the Notice of Missing Parts, and while the planned action is the submission of an information disclosure statement, that planned reply would have been consistent with Petitioner's other reply duties to the Office on that day. Thus, Petitioner's own showing suggests that the Office action was received and docketed, though this is unclear and must be clarified. The petition was dismissed on 9 December, 2009.

On 9 February, 2009, new Petitioner (of the same firm) filed a petition, but again failed to track the guidance as to the requirements discussed at MPEP §711.03(c)(I), and the Office requested by telephone that Petitioner supplement his petition to track that guidance and satisfy the statement requirements set forth discussed at MPEP §711.03(c)(I), and that it was not necessary to resubmit documents previously submitted. On 11 March, 2009, Petitioner supplemented his petition of 9 February, 2009, but Petitioner erroneously indicated therein that the Office provided to Petitioner suggestions that his prior petition satisfied certain requirements—again, Petitioner is

reminded that the Office specifically requested that he track the guidance in the MPEP, which Petitioner now seems to have done, and it was not necessary for Petitioner to resubmit documents previously submitted. Nonetheless, it is noted that in the wake of submissions on 22 April and 14 October, 2008, as well as those of 9 February and 11 March, 2009, Petitioner appears now to have made a showing of non-receipt—with statements and documentary submissions consistent with the guidance in the Commentary at discussed at MPEP §711.03(c)(I) and set forth below.

Petitioners averring non-receipt always are directed to the requirements set forth in the Commentary at MPEP §711.03(c)(I), which 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]

***

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

[1] *See*: MPEP §711.03(c) (I)(A).

representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have satisfied the showing required.

As to Allegations of
Unintentional Delay

It appears that the petition pursuant to 37 C.F.R. §1.137(b) is moot.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 22 February, 2008,Notice of Abandonment is **vacated**; and the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

---

[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).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Continental Automotives Systems, Inc.
Patents & Licenses
21440 WEST LAKE COOK ROAD
Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Edward Li	: DECISION ON REQUEST FOR
Patent Number	: 7639021	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/747,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **151** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

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DEC 10 2008

In re Application of :
Pestotnik et al. : DECISION ON PETITION
Application No. 11/747,817 :
Filed: May 11, 2007 :
Atty Docket No. 15226.25.1.1 :

This is a decision on the PETITION UNDER 37 CFR 1.182 TO CHANGE THE ORDER OF JOINT PATENTEES IN ANY RESULTING PATENT filed July 2, 2008.

The petition is **GRANTED**.

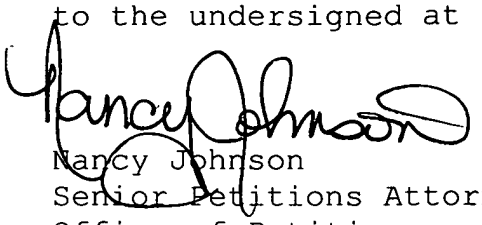
Petitioner notes that prosecution is still open in the above-identified application. Petitioner requests that Stanley I. Pestotnik appear as the first named inventor in any resulting patent (and the names of the other inventors appear in their respective order after Stanley L. Pestotnik). The petition includes payment of the $400 petition fee and a supplemental application data sheet.

The order of the names of the inventors has been changed as follows:

1. Stanley L. Pestotnik
2. William J. Ketcherside
3. Jonathan B.F. Olson
4. William F. Harty
5. Robert R. Hausam
6. Michael E. Baza

A filing receipt reflecting this change is enclosed.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/747,817	05/11/2007	2612	625	15226.25.1.1	1	1

CONFIRMATION NO. 5245

CORRECTED FILING RECEIPT

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000033488588

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)

Stanley L. Pestotnik, Sandy, UT;
William J. Ketcherside JR., Kansas City, MO;
Jonathan B. F. Olson, Salt Lake City, UT;
William F. Harty, Salt Lake City, UT;
Robert R. Hausam, Midvale, UT;
Michael E. Baza, Woods Cross, UT;

Power of Attorney: The patent practitioners associated with Customer Number 022913

Domestic Priority data as claimed by applicant

This application is a CON of 10/773,106 02/05/2004 PAT 7,230,529
which claims benefit of 60/445,889 02/07/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/747,817**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

SYSTEM, METHOD, AND COMPUTER PROGRAM FOR INTERFACING AN EXPERT SYSTEM TO A CLINICAL INFORMATION SYSTEM

Preliminary Class

340

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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JUL 06 2010

OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of :
Roy Ben-Yoseph et al :
Application No. 11/747,819 :
Filed: May 11, 2007 :
Attorney Docket No. 10587.0313-00000 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 1, 2007.

The petition is **dismissed.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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 lack items (1) and (2) set forth above.

As to item (1), there is no evidence that the non-signing inventor was presented with the application papers. The evidence of record only indicates that the non-signing inventor was presented with a combined declaration, power of attorney and an assignment document.

As to item (2), a declaration in compliance with 37 CFR 1.63 and 1.64 has not been presented. In this regard, the declaration fails to set forth the citizenship of non-signing inventor Cian Chang. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed

in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

David Bucci
Petition Examiner
Office of Petitions

cc: Fish & Richardson P.C.
1425 K Street, N.W., 11th Floor
Washington, DC 20005-3500

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JUN 23 2008

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

In re Application of :

GHERARDI, Laurent :
Application No. 11/747,837 : DECISION ON PETITION
Filed: May 11, 2007 : TO WITHDRAW
Attorney Docket No. **20909/0206292-US0** : FROM RECORD
:

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

The request is **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 W. Branch on behalf of all attorneys of record who are associated with customer No. 07278. 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: **LAURENT GHERARDI**
839 NE 96TH STREET
SEATTLE, WA 98115

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOSHUA D. ISENBERG
JDI PATENT
809 CORPORATE WAY
FREMONT, CA 94539

MAILED

JUN 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert G. Batchko, et al.	:	
Application No. 11/747,845	:	DECISION GRANTING PETITION
Filed: May 11, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HCP-003/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed June 9, 2009.

/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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6th STREET, NW
WASHINGTON DC 20001

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DEC 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Pareek et al.	:	DECISION ON PETITION
Application No. 11/747,848	:	TO WITHDRAW
Filed: May 11, 2007	:	FROM RECORD
Attorney Docket No. GATE-004/01US	:	
301031-2009		

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**.

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 William S. Galliani on behalf of all attorneys of record, but reflects an incorrect Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

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 September 10, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON DC 20001

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DEC 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Pareek et al.	:	DECISION ON PETITION
Application No. 11/747,856	:	TO WITHDRAW
Filed: May 11, 2007	:	FROM RECORD
Attorney Docket No. GATE-005/01US 301031-2010	:	

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**.

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 William S. Galliani on behalf of all attorneys of record, but reflects an incorrect Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

Currently, there is an outstanding Office action mailed June 25, 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

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Alexandria, VA 22313-1450
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COCHRAN FREUND
& YOUNG LLC
2026 CARIBOU DR
SUITE 201
FORT COLLINS CO 80525

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of :
Taylor, et al. :
Application No. 11/747,857 : DECISION
Filed/Deposited: 11 May, 2007 :
Attorney Docket No. TMA.01USF2 :

This is a decision on the petition, filed on 22 January, 2010, 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.

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 21 October, 2009, with reply due under a non-extendable deadline on or before 21 January, 2010.

The application went abandoned by operation of law after midnight 21 January, 2010.

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

On 22 January, 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 Office mailed the Notice of Abandonment on 1 February, 2010.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

As to Allegations of
Unintentional Delay

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

It appears that the requirements under 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 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/747,866	05/11/2007	Mitchell Wortzman	MEDCI.032CP1	5327

7590 10/02/2008

OHLANDT, GREELEY, RUGGIERO & PERLE,LLP
MEDICIS PHARMACEUTICAL CORPORATION
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

EXAMINER	
WOODWARD, MICHAEL P	

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
10/02/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☑ Petition fee was not paid.

The application **has/will be published** as scheduled.

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

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/747,866	05/11/2007	Mitchell Wortzman	MEDCI.032CP1	5327

7590 10/02/2008

OHLANDT, GREELEY, RUGGIERO & PERLE,LLP
MEDICIS PHARMACEUTICAL CORPORATION
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

EXAMINER	
WOODWARD, MICHAEL P	

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
10/02/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

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

Valetus Buchanan

Patent Publication Branch
Office of Data Management

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/747,866	05/11/2007	Mitchell Wortzman	MEDCI.032CP1	5327

7590 01/07/2009

OHLANDT, GREELEY, RUGGIERO & PERLE,LLP
MEDICIS PHARMACEUTICAL CORPORATION
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

EXAMINER	
WOODWARD, MICHAEL P	

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
01/07/2009	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.

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

Adjustment date: 01/07/2009 KKING1
09/05/2007 INTEFSW 00000576 11747866
02 FC:1111 -500.00 DP
05 FC:1202 -800.00 DP
07 FC:1203 -360.00 DP

Refund Ref:
01/07/2009 0030065338

Credit Card Refund Total: $1660.00

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JUL 12 2007

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Dennis Lee Murphy et al	:
Serial No.: 11/747,870	: PETITION TO MAKE SPECIAL
Filed: May 11, 2007	:
Attorney Docket No.: 018794-013810US	:

This is in response to the petition filed July 2, 2007, 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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LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

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OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of
James Johnson
Application No. 11/747,896
Filed: May 12, 2007
Attorney Docket No. JJ04302007

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 14, 2007 and October 5, 2007.

The request is **APPROVED**.

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

The requests were signed by Philip A. Steiner on behalf of all attorneys/agents associated with customer number 31105. All attorneys/agents associated with customer number 31105 have been withdrawn.

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

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

There are no outstanding Office actions in this case.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James Johnson
1880 Ocean Street
Oceano, CA 93445

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LAW OFFICE OF PHILIP A. STEINER
1212 MARSH STREET #3
SAN LUIS OBISPO, CA 93401

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OFFICE OF PETITIONS

In re Application of	:	
James Johnson	:	DECISION ON PETITION
Application No. 11/747,896	:	TO WITHDRAW
Filed: May 12, 2007	:	FROM RECORD
Attorney Docket No. JJO05152007	:	

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**.

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 Mr. Philip A. Steiner on behalf of all practitioners of record. The request cannot be approved since the practitioners of record were appointed by Customer Number. Therefore, any subsequent request must reflect withdrawal of the associated practitioners in the same manner as appointed.

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

There are no outstanding Office actions that require a reply.

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

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APR 12 2010

OFFICE OF PETITIONS

LAW OFFICE OF PHILIP A. STEINER
1212 MARSH STREET #3
SAN LUIS OBISPO, CA 93401

In re Application of	:	
James Johnson	:	DECISION ON PETITION
Application No. 11/747,896	:	TO WITHDRAW
Filed: May 12, 2007	:	FROM RECORD
Attorney Docket: JJo05152007	:	

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 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 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 Philip A. Steiner on behalf of all practitioners of record associated with Customer Number 31105.

Customer Number 31105 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There 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: JAMES JOHNSON
1880 OCEAN STREET
OCEANO, CA 93445

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/747,896	05/12/2007	James Johnson	JJO05152007

CONFIRMATION NO. 5408

LAW OFFICE OF PHILIP A. STEINER
1212 MARSH STREET #3
SAN LUIS OBISPO, CA 93401

POWER OF ATTORNEY NOTICE

OC000000040844132

Date Mailed: 03/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/22/2009.

- 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.

/atkelley/

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

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AUG 24 2007

AUG 24 [illegible]

JAMES NEIL RODGERS
8853 214TH PLACE
LANGLEY -- BRITISH COLUMBIA V1M 2H9 CA CANADA

In re Application of: RODGERS, JAMES NEIL Serial No.: 11/747,904 Filed: May 13, 2007 Title: CHIP REFEREE	:	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 13, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 and II: 1-4, 5.1, 6.1, and 6.4 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2, 5.3, 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.

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document, pages 1-2, the Pre-Examination Search Statement pages 1-2, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on May 13, 2007.

Regarding the requirements of section II element 5.2 outlined above, though the petitioner has searched class 250, petitioner has omitted critical search areas in subclasses 200, 206, 206.1, 206.2, 208.3, and 208.6 of this class. Though the petitioner has searched class 343, petitioner has omitted critical search areas in subclasses 711 and 718-721 of this class. Furthermore, it appears the search outlined in the petition omitted many critical search areas by not searching classes 434, 473, 116, 348, 368, and 340 at least. The search has not included any areas of Non-Patent Literature and also has not included any statement as to why no search was conducted in any such areas. It is further noted that the independent claims are of such a broad and encompassing nature that the expected search areas for such claims would cover vast amounts of art; indeed the purpose of the search requirement is for petitioner to do a complete and through search, analyze the prior art and then draft claims to be patentable over that art at the onset. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-7 have been specifically searched. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 5.3 outlined above, the petition fails to describe the search for any disclosed features that may be claimed or provide any statement that there are no more disclosed features which may be claimed.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. The petition refers merely to the *claims* of each of the two cited references rather than *the full disclosure of the reference* as required. In addition, the petition fails to identify *all the limitations in the claims* which are disclosed. The discussion of references in the ESD does not make reference to specific limitations of the claims of the instant application but instead broadly discusses what the reference in general teaches. Note that this is the case with each and every reference discussed in the ESD. Further, this requirement is not limited to limitations in the *independent* claims; rather petitioner must point out all the limitations in all the claims that are disclosed by each reference. A grantable petition requires 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. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This analysis should be done for each claim for a grantable petition. That a limitation may be, in petitioner's opinion, lacking from a reference when comparing the reference to an independent claims does not exempt petitioner from the remaining analysis of what the reference discloses with respect to each claimed limitation in the remaining dependent claims.

Regarding 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 references with particularity required by 37 CFR 1.111(b) and (c). Petitioner has only provided a broad discussion of patentability with respect to all references in general. The ESD fails to provide *a detailed explanation* of how *each* of the claims is patentable over *each* of the references *with particularity* as required. It is also noted that as it is not apparent that the limitations of the independent claims have been specifically searched, it is expected that a search of the individual claim limitations as required above might result in additional discussion of how each dependent limitation may by patentable. As outlined above, all claims must be addressed with at least the same specificity to claim language as is needed to meet the requirement of section II element 6.2 above, and with respect to each cited reference. For reference, a grantable petition must meet the requirements of the practice and such includes a discussion with respect to the claimed subject matter. 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."

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of the specification as well as in each priority document for which benefit under 35 USC is claimed. In discussing support in the instant specification, no reference is made to specific claim limitations. Petitioner broadly states that support in the disclosure can be found, but with no reference to where specific support is found for each specific claim limitation as required. Nonetheless, a grantable petition requires a *complete* showing of where *each limitation* of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Petitioner has also failed to identify any means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph and as such it is presumed no such language in any of the claims invokes 112, sixth paragraph.

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 Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Wilbur Dale Mcintire :
Application No. 11/747,911 : DECISION ON PETITION
Filed: May 13, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. MCINTIRE-002CIP : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a 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 referred back to the Office of Initial Patent Examination to complete the pre-examination process. The application will be accorded "special" status upon completion of the pre-examination process.

April M. Wise
Petitions Examiner
Office of Petitions

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Alan Siegel :
Application No. 11/747,959 : DECISION ON PETITION
Filed: May 14, 2007 :
Attorney Docket No. ASC-CIP-001 :

This is a decision on the petition filed under 37 C.F. R. 1.137(b) on March 3, 2008, in the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. In this instance, the fee required by law is $1,540. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. The fee paid is $1500. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Alan Siegel :
Application No. 11/747,959 : DECISION ON PETITION
Filed: My 14, 2007 :
Attorney Docket No. ASC-CIP-001 :

This is a decision on the request for reconsideration filed May 15, 2008 of the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 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 June 12, 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 August 13, 2007.

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

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to OIPE AU 3662 for appropriate action in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
David Eichenberger, et al. :
Application No. 11/747,971 : DECISION ON PETITION
Filed: May 14, 2007 :
Attorney Docket No. 010355-9172-00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 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 June 4, 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 timely obtained. Accordingly, the application became abandoned on August 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper substitute specification, (2) the petition fee of 1,540, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on March 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272 - 4914.

This application is being referred to Technology Center AU 3681 for appropriate action by the Examiner in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

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THOMAS KAYDEN HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E., STE 1500
ATLANTA, GA 30339-5994

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JUL 06 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ti-Wen Yuan et al :
Application No. 11/748,004 :
Filed: May 14, 2007 :
Attorney Docket No. 251314-4050

This is a decision on the petition, filed July 5, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 27, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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MAY 20 2008

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

In re Application of :
Low, et al. :
Application No.: 11/748,042 : DECISION
Filing Date: 14 May, 2007 :
Attorney Docket No. VTU.07-0005-US :

This is a decision on the petition filed on 4 February, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice to File Missing Pars (oath/declaration and surcharge) mailed on 19 June, 2007, with reply due absent extension of time on or before 19 August, 2007.

The application went abandoned by operation of law after midnight 19 August, 2007.

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

On 4 February, 2008, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), with, ***inter alia***, a reply in the form of the surcharge and a petition under 37 C.F.R. §1.47 with fee, and made the statement and showing of unintentional delay.

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

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

STATUTES, REGULATIONS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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

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

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional

CONCLUSION

The instant 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.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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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] 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 :
Low, et al. :
Application No.: 11/748,042 : DECISION
Filing Date: 14 May, 2007 :
Attorney Docket No. VTU.07-0005-US :

This is a decision on the petition filed on 4 February, 2008, under 37 C.F.R. §1.47.

The petition under 37 C.F.R. §1.47 is **GRANTED**.

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

The application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a). This application is hereby accorded Rule 1.47(a) status.

The record reflects that: Petitioner demonstrates that the entire application—description, claims, abstract and drawings—was sent to and received at the last known residence address the non-signing inventor, and that the non-signing inventor has since failed and, thus, constructively refused to join in the filing of the above-identified application.

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

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

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

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **granted**.

As provided in 37 C.F.R. §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 instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of 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 :
Low, et al. :
Application No.: 11/748,042 : COMMUNICATION
Filing Date: 14 May, 2007 :
Attorney Docket No. VTU.07-0005-US :

Dear Gene Wesley Marsh:

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

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

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

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).

Telephone inquiries regarding this communication 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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of PetitionS

Counsel of Record:
HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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

§1.2 Business to be transacted in writing.

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

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BREA CA 92821

In re Application of	:	
Grundy, et al.	:	
Application No. 11/748,045	:	DECISION
Filed: 14 May, 2007	:	
Attorney Docket No. SIPI.P134.C1	:	

This is a decision on the petition filed on 25 June, 2007, under 37 C.F.R. §1.47(a).

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

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

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

[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record indicates:

- the instant application was filed on 14 May, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 4 June, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 25 June, 2007, Petitioner Charles E. Shemwell (Reg. No. 40,171) filed, *inter alia*, the instant petition, an oath/declaration signed by Messrs. Grundy, Yasumura, Fjelstad and Wiedemann (for themselves and on behalf of) but not the non-signing co-inventor Para K. Segaram), and statement by Petitioner and the Chief Financial Officer of the assignee, Matthew J Stepovich that materials were transmitted to Mr. Segaram as to events that took place almost two years to the date before the instant application was filed and there is no evidence of effort to contact and transmit to the non-signing inventor documents required under law—i.e., to wit: the entire application (description, claims, abstract and drawings), nor does there appear to be by Petitioner himself even this statement and the required statement as to the last known/reasonably believed to be current/valid residential mailing address and evidence of diligence to ascertain same—Petitioner is directed to the discussion below from the Manual of Patent Examining Procedure for a discussion of the requirements to transmit to the non-signing inventor(s) copies of the entire application (description, claims, abstract and drawings), and the other requirements under the law, as discussed below.

The above-described procedure (and as set forth in detail below) is a matter of due process owed to the averred non-signing inventor.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

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

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any

ANALYSIS

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

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

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

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

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false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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

(4) Imposing a monetary sanction;

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

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

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

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

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

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

The commentary at MPEP §409.03(d) provides:

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

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

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

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

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

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

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

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

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3])

Petitioner's attention is directed to the discussion in the BACKGROUND and ANALYSIS, above, and should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) the requirements that a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to, and evidencing reasonable diligence in ascertaining a reasonably believed last known/current address for the non-signing inventor, all as required by law.

CONCLUSION

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

Further correspondence with respect to this matter should be addressed as follows:[4]

By mail: Commissioner for Patents[5]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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[3] See: MPEP 409.03(b).

[4] On July 15, 2005, the Central Facsimile (FAX) Number changed from (703) 872-9306 to (571) 273-8300. Old number(s) no longer are in service and (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information, see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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

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[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

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

LAW OFFICES OF RONALD SHEA
2540 COUNTRY HILLS RD.
/APT. 192
BREA CA 92821

COPY MAILED

MAR 3 1 2008

In re Application of
Grundy, et al.
Application No. 11/748,045
Filed: 14 May, 2007
Attorney Docket No. SIPI.P134.C1

DECISION

This is a decision on the petition filed on 28 January, 2008, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 14 May, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 4 June, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 25 June, 2007, Petitioner Charles E. Shemwell (Reg. No. 40,171) filed, *inter alia*, the original petition, an oath/declaration signed by Messrs. Grundy, Yasumura, Fjelstad and Wiedemann (for themselves and on behalf of) but not the non-signing co-inventor Para K. Segaram), and statement by Petitioner and the Chief Financial Officer of the assignee, Matthew J Stepovich that materials were transmitted to Mr. Segaram as to events that took place almost two years to the date before the instant application was filed and there is no evidence of effort to contact and transmit to the non-signing inventor documents

required under law—i.e., to wit: the entire application (description, claims, abstract and drawings), nor does there appear to be by Petitioner himself even this statement and the required statement as to the last known/reasonably believed to be current/valid residential mailing address and evidence of diligence to ascertain same—Petitioner is directed to the discussion below from the Manual of Patent Examining Procedure for a discussion of the requirements to transmit to the non-signing inventor(s) copies of the entire application (description, claims, abstract and drawings), and the other requirements under the law—and the petition was dismissedon 26 November, 3007;

- the instant petition seeks to overcome these deficiencies and recites and evidences transmittal of the entire application to the non-signing inventor and his failure/constructive refusal to sign/join in the signing —all in satisfaction of the requirements set forth in the guidance in the Commentary at commentary at MPEP §409.03(d).

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]

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.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is released to Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) for processing as necessary before being released for examination in due course.

[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).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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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

PARA K. SEGRAM
106 KINTYRE STREET
BROOKFIELD
QUEENSLAND
AUSTRALIA
4069

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MAR 3 1 2008

In re Application of :
Grundy, et al. :
Application No. 11/748,045 : DECISION
Filed: 14 May, 2007 :
Attorney Docket No. SIPI.P134.C1 :

Dear Para K Segram:

You are named as 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,[1] Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you

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[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached:

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

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

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

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Counsel of Record:
LAW OFFICES OF RONALD SHEA
2540 COUNTRY HILLS RD.
/APT. 192
BREA CA 92821

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

§1.2 Business to be transacted in writing.

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OFFICE OF PETITIONS

In re Application of :
David T. Fu, et *al.* :
Application No. 11/748,054 : DECISION GRANTING PETITION
Filed: May 14, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **GP-309344-PTH-CD** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 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 November 23, 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Sean D. Johnson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Johnson desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

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

This application is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed December 3, 2009.

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

Cc: **SEAN D. JOHNSON**
INGRASSIA FISHER & LORENS, P.C.
7010 E. COCHISE ROAD
SCOTTSDAL, AZ 85253

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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.*

PTO/SB/130 (03-08)
Approved for use through 07/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11748064	Confirmation Number	5735	Filing Date	2007-05-14
Attorney Docket Number (optional)	ITI-424A	Art Unit	3754	Examiner	Not Yet Assigned
First Named Inventor	Franklin Thomas Driver				
Title of Invention	Longitudinally Reinforced Cured In Place Liner				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Franklin	Thomas	Driver	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Michael I. Wolfson/	Date (YYYY-MM-DD)	2008-07-23
Name	Michael I. Wolfson	Registration Number	24750

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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In re Application of
Franklin Thomas Driver

Application No. 11748064

Filed: May 14,2007

Attorney Docket No. ITI-424A (086080.015920)

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 23-JUL-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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OFFICE OF PETITIONS

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

In re Application of :
Driver et al :
Application No. 11/748,064 : DECISION ON PETITION
Filed: May 14, 2007 :
Attorney Docket No. INSI 4395A-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 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 an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed August 12, 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 Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received February 26, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP STAMFORD
CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD, CT 06901

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Application of :
Franklin Thomas Driver, et al. :
Application No. 11/748,064 :
Filed: May 14, 2007 :
Attorney Docket No. INSI 4395A-US; ITI-424A :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2010.

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

A review of the file record indicates that the power of attorney to McCarter & English, LLP Stamford has been revoked by the assignee of the patent application on January 20, 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SENNIGER POWERS LLP**
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

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TECHNOLOGY CENTER 3600

Adam K. Sacharoff
Much, Shelist, Freed, Denenberg, Ament & Rubenstein, PC
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

In re application of
Charles Van Valkenburgh
Application No. 11/748,065
Filed: May 14, 2007
For: MOTORCYCLE RESTRAINT SYSTEM

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

This is a decision on the petition filed on May 14, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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

Initially, it is noticed that the petition does not appear to have been signed and only includes initials. A signature, electronic or otherwise, is needed.

The petition in this case fails to comply with conditions II.5.2, II.6.1, and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, with respect to the classification search, in addition to the areas already searched, the search needs to include a search of 410/3 (where the invention is classified) and 410/2, 9, 19, 22 and 80. In addition, searches of class 224/403, 533, 545 and 567 and class 248/503 are needed.
With respect to the text search of the US Patents database, the search logic in the petition appears to lack the incorporation of terms that would constitute "the broadest reasonable interpretation" of the claimed subject matter as is required. The text search appears to be narrowly directed to a hold down for a motorcycle, but should be broadened to encompass search terms for hold downs for other vehicles including "automobile", "car", "truck", "van", "pick-up" and "vehicle". The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. It is noticed that some of the NPL areas searched include an indication of the search in terms of the search terms only and lack any indication of the search **logic** used. The specific search logic used should be specified.

As to condition II.6.1, it is noted that parent application 11/684,662 disclosed a related invention and had an IDS filed consisting of 18 references. However, all but a single reference of the 18 cited by the applicant are not included here. Their absence should be explained given the requirements for a proper AE Support Document submission outlined below.

Applicant is required to submit an accelerated examination support document (AESD) that includes an IDS in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims (whether in independent or dependent form). Specifically:

(1) Applicant **is not** required to cite the references that are only relevant to the general subject matter of the claims because there are references that are more closely related to the subject matter of the claims. Applicant is also not required to cite a reference that is cumulative to any other reference cited in the IDS.
(2) Applicant **is** required to cite any reference that establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim (see 37 CFR 1.56(b)) in the IDS of the AESD.
(3) Applicant **is** required to cite the reference that discloses the most limitations in the independent claim.
(4) Applicant **is** required to cite any reference that discloses a limitation of an independent claim that is not shown in the other references.
(5) Applicant **is** required to cite any reference that discloses a limitation of a dependent claim that is not shown in the other references.

Items II.6.2 and II.6.3 are seen as being met by the explanation of the single reference in the submitted Support Document, but such continued compliance would also hinge on the status of the remaining 17 references cited in the parent application and whether or not it is proper to exclude them from the Support Document.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is sufficient. However, similar support (if any) for the claimed invention must additionally be shown in any parent application upon which priority is claimed under 35 USC 120. Specifically, for provisional application 11/684,662, a listing of where the limitations of the claims find support is necessary in order to allow the examiner to determine the effective filing dates of the various claims.

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 **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 Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 6/17/07

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Adam K. Sacharoff
Much, Shelist, Freed, Denenberg, Ament & Rubenstein, P.C.
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

In re application of
Charles Van Valkenburgh
Application No. 11/748,065
Filed: May 14, 2007
For: MOTORCYCLE RESTRAINT SYSTEM

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

This is a decision on the renewed petition filed on July 12, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 CFR 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 to 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 CFR 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 CFR 1.181, 182 or 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 Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Special Program Examiner
Technology Center 3600

Sm/sm: 7/16/07

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11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

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JUN 29 2009

OFFICE OF PETITIONS

Applicant: Krell et al.
Appl. No.: 11/748,074
Filing Date: May 14, 2007
Title: APPLICANCE FOR REMOVING FLUIDS AND/OR SOLIDS
Attorney Docket: 03100363AA
Pub. No.: US 2008/0189980 A1
Pub. Date: August 14, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 10, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the specification that was originally filed on July 19, 2007, but not the specification that the applicant intended to file.

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." (Emphasis added) A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to failure to include the intended specification, which was the second specification filed in the application and which was filed as a paper on September 7, 2007 but not as a preliminary amendment and not via the EFS system, as a "Pre-Grant Publication", in the publication is not an Office error. See MPEP 1130(B), stating that a "failure to include an amendment is not an Office error," and 37 CFR 1.215(a). The publication accurately reflected the specification as filed.

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on September 10, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

A "request for republication of an application previously published" filed under 37 CFR 1.221(a) "must include a copy of the application compliance with the Office's electronic filing system [EFS] requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." Applicant's petition does not comply with the EFS requirements. The republication will not take place and the publication fee set forth in § 1.18(d) has not been charged. The processing fee will be retained.

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

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

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark O. Polutta
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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GENERAL MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

Applicant	: Paul A. Bauerle	: DECISION ON REQUEST FOR
Patent Number	: 7584742	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,076	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **85** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GLM

6-8-07

In re application of : :
Xiao-Chun Lu et al :
Serial No. 11/748,088 : DECISION ON PETITION
Filed: May 14, 2007 : TO MAKE SPECIAL
For: FLUE GAS PURIFICATION PROCESS :
USING A SORBENT POLYMER :
COMPOSITE MATERIAL :

This is a decision on the petition filed on May 14, 2007 to make the above-identified application special.

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

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. Note that any petition to make special under MPEP § 708.02, based solely on subsection V (Environment) was required to be filed prior to August 25, 2006.

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 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 instant application meets the "Conditions Regarding the Application" mentioned above, inasmuch as it is a utility application, complete at filing via EFS-web and containing two independent and four total claims. However, the petition manifestly does not meet requirements 2-6 of the "Conditions Regarding the Petition." Being directed to the now-inapplicable requirements of MPEP 708.02(V), the petition fails to include any of the required statements, or any accelerated examination support document as now required.

DECISION

For the above-stated reasons, the petition is dismissed. The application will therefore be taken up by the examiner 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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

GORE ENTERPRISE HOLDINGS, INC.
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Alexandria, VA 22313-1450
www.uspto.gov

glm

8-15-07

In re application of	:	
Xiao-Chun Lu et al.	:	
Serial No. 11/748,088	:	COMMUNICATION
Filed: May 14, 2007	:	REGARDING ORDER OF
For: FLUE GAS PURIFICATION PROCES USING A SORBENT POLYMER COMPOSITE MATERIAL	:	EXAMINATION

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on June 8, 2007. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

As of August 15, 2007, neither a reply nor a renewed petition has been received. Accordingly, the application is no longer eligible for the accelerated examination program.

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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1055.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

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INGRASSIA FISHER & LORENZ, P.C. (GM)
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

MAILED

JUN 0 8 2010

OFFICE OF PETITIONS

In re Application of
Keming Chen et al
Application No. 11/748,106
Filed: May 14, 2007
Attorney Docket No. GP-307012-CD
(003.0730)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 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 December 4, 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

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

MICRON TECHNOLOGY, INC.
8000 FEDERAL WAY
MAIL STOP 525
BOISE, ID 83707-0006

Mail Date: 06/02/2010

Applicant	: Ramakanth Alapati	: DECISION ON REQUEST FOR
Patent Number	: 7659210	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/748,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/14/2007	: 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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3000 K STREET NW
WASHINGTON DC 20007

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of :
Horst Olschewski et al. :
Application No. 11/748,205 : DECISION REFUSING STATUS
Filed: May 14, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 080618-0548 :

This decision is in response to the petition filed November 30, 2007 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below; except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 14, 2007, without an oath or declaration. Accordingly, on May 31, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a declaration executed by all joint inventors except Olschewski, Schmehl, Seeger and Voswinkel in their own stead and on behalf of the non-signing joint inventors and four month extension of time was filed. Petitioner claims that joint inventors Olschewski, Schmehl, Seeger and Voswinkel refuse to sign the declaration.

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

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

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

(3) the petition fee;

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

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventors only that the Declaration was sent by email to joint inventor Seeger.

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any) and the Declaration were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that if after having received the complete application, the non-signing inventors refuse to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Furthermore, petitioners might be better served by sending the application papers directly to each joint inventor instead of relying on joint inventor Seeger to transmit the papers to each of the other joint inventors to ensure that they have been sent and received.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the deficiencies have been cured.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(d).

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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

JUN 20 2007

In re Application of: Williams et al.
Serial No.: 11/748,206
Filed: May 14, 2007
Title: GOLF CLUB HEAD

: DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 14, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 and II: 1-4, 5.1, 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: 5.2, 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.

When referring to "the petition" herein below, the received papers under consideration include the two page PTO/SB/28 form, the Accelerated Examination Support Document, pages 1-18, the Pre-Examination Search Statement, pages 1-3, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on March 27, 2007.

Regarding the requirements of section II element 5.2 outlined above, a pre-examination search has been conducted by petitioner in class 473 subclass 345, 349, 329, 350, 327. It appears the search outlined in the petition omitted critical portions of class 473 by not searching the entirety of subclasses 324-350 and 290-292. Subclasses 324, under which remaining subclasses 325-350 are all indented, is defined as "Subject matter including a method, a playing area, playing equipment, a practice device, or auxiliary device used by a player or located on the playing area that is for playing or practicing a game wherein a player strikes a ball by a stroke or a number of strokes to advance the ball from a ball striking location to one of a plurality of sequentially numbered putting holes, and plays a number of such holes sequentially with the object, on each hole, of advancing the ball from the ball striking location into the putting hole in the fewest number of strokes, the playing equipment comprises an instrument, or an element thereof, which is swung by the player to strike the ball in playing the game competitively or the auxiliary device comprises means to brace or carry the instrument *wherein significance is attributed to an element which comprises a ball-striking portion*". As the instant invention is drawn to a golf club head, there appears to be a clear need for searching in these subclasses. Subclasses 290 and 291 are drawn to golf clubs wherein two instruments or two elements thereof comprise two ball-striking portions, and wherein significance is attributed to a relationship between the portions and more specifically wherein said relationship is material density and its dispersal throughout the portions; subclass 292 is drawn to golf clubs wherein the instrument comprises (1) a portion to be grasped by the player, (2) a ball-striking portion, and (3) an elongated member connecting the portions, and wherein significance is attributed to a point about which the instrument balances. As the instant invention is drawn to a golf club head having particular features such as hollow portions, a particular center of gravity, and a particular moment of inertia, there appears to be a clear need for searching in these subclasses. The text search of US-PGPUB, USPAT, EPO, JPO, DERWENT, and FPS appears to omit several relevant terms and therefore would not encompass all possible relevant art. The search logic appears in some respects to be too narrow and does not include the terms such as center of gravity, golf club head, etc. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirement of section II, elements 6.2 and 6.3, at the onset, it is noted that while the IDS submitted cites 28 references in total, the Examination Support Document (ESD) only discusses 6 of the 28 references in any detail or with any particularity. The IDS should contain only those references most closely related to the subject matter of each claim. The ESD must identify all of the limitations in the claims that are disclosed by each such reference. The ESD must also provide a detailed explanation of how each of the claims are patentable over each such reference with the same level or detail and analysis for each reference. Because the ESD only refers with specificity/particularity to 6 of the 28 cited references, elements 6.2 and 6.3 are not met. Thus, because the ESD does not refer to references that appear to be admittedly closely related to the subject matter of the claims, elements 6.2 and 6.3 are not met.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by *each reference* specifying where the limitation is disclosed in the cited reference. As explained above, the ESD fails to refer to each reference; it is noted that many of the references are described broadly with respect to "the claims" rather than with respect to each limitation of each claim which is disclosed. Further, it is noted that with respect to those 6 references which do provide some detailed analysis, some claims are not discussed at all; it is unclear, for example, whether Jacobson (US 6602149) discloses anything relevant with respect to the body having a geometric center point, an aft-heel edge point, and an aft-toe edge point or a heel wall which extends from a perimeter of a front wall in general as Jacobson was not discussed with respect to these limitations at all. Jacobson is pointed to as merely example; similarly each limitation disclosed by each reference should be clearly identified. A grantable petition requires 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. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This analysis should be done for each claim for a grantable petition. That a limitation may be, in petitioner's opinion, lacking from a reference when comparing the reference to an independent claims does not exempt petitioner from the remaining analysis of what the reference discloses with respect to each claimed limitation in the remaining dependent claims.

Regarding 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 references with particularity required by 37 CFR 1.111(b) and (c). As explained above, the ESD fails to refer to each reference. In addition, the instant petition refers only to "the instant invention" or "the claims" when referring to the 6 references out of 28 which are discussed with any specificity. There is no detailed explanation of *each* claim with respect to each reference. The requirement is not limited to only independent claims but rather must provide a detailed explanation of the patentability of *each claim* with respect to *each reference*. As outlined above, all claims must be addressed with at least the same specificity to claim language as is provided for the requirement of section II element 6.2 above, and with respect to each cited reference. Absent this, the petition must provide a detailed explanation for the dependent claim itself. For reference, a grantable petition must meet the requirements of the practice and such includes a discussion with respect to the claimed subject matter. 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."

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written

description of the specification as well as in each priority document for which benefit under 35 USC is claimed. Specifically, the petition only generally refers to support for "the claims" and lists several paragraphs of the instant specification; there is no reference to specific claims, let alone specific limitations, and there is no specific identification of limitations in the specification, only a general list of paragraphs. The petitioner has not pointed to support for *each limitation* of each claim with particularity. It is noted that the petitioner has not made any statement regarding any means-(or step-) plus-function claim elements which invoke 112, sixth paragraph consideration; it is presumed there is no such claim language and petitioner is invited to confirm this presumption. In addition, it is noted that the instant application claims priority as a continuation of 11/625,176 which is a continuation of 11/161,199 which claims priority to 60/641,283. The petition fails to provide any showing of where each limitation finds support under 112, first paragraph in the written description for US 11/625,176, US 11/161,199, and US 60/641,283 from which priority is claimed. Nonetheless, a grantable petition requires a *complete* showing of where *each limitation* of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed.

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 Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.

Colleen P. Cooke

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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CALLAWAY GOLF COMPANY
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CARLSBAD CA 92008-7328

AUG 13 2007

In re Application of: Williams et al.
Serial No.: 11/748,206
Filed: May 14, 2007
Title: GOLF CLUB HEAD

: 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 July 18, 2007 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 May 14, 2007 and dismissed in the Office letter of June 20, 2007.

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 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 interpretation;

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).

PERTINENT BACKGROUND INFORMATION

When referring to "the petition" herein below, the received papers under consideration include the two page PTO/SB/28 form, the Accelerated Examination Support Document, pages 1-18, the Pre-Examination Search Statement, pages 1-3, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on March 27, 2007. The received papers under consideration further include the Pre-Examination Search Document pages 1-4, the Accelerated Examination Support Document pages 1-28, and the Information Disclosure Statement and PTO-1449 form, all of which were received via EFS Web on July 18, 2007. Upon reconsideration, conditions 5.2 and 6.5 are considered met by petitioner as reflected in the paragraph above.

The petition decision mailed June 20, 2007 set forth that the originally filed petition failed to comply with conditions set forth under section II: 5.2, 6.2, 6.3, and 6.5 above. . Upon reconsideration, conditions 5.2 and 6.5 are considered met by petitioner.

The requirements in section II: 6.2 and 6.3 have not been met by the July 18, 2007 Accelerated Examination Support Document. As set forth in the decision mailed June 20, 2007, sections 9(B) and 9(C) failed to specify where each disclosed limitation is found in *each* cited reference and to provide a detailed explanation of how each of the claims are patentable over *each* of the references cited with the particularity required by 37 CFR 1.11 l(b) and (c) (emphasis added). A review of the Accelerated Examination Support Document and second IDS filed July 18, 2007 finds that petitioner has submitted a second IDS listing only six of the originally cited twenty-eight references and section 9(A) of the petition states that an Information Disclosure Statement "has been filed herewith citing each of the following references which are deemed most closely related to the subject matter of the claim". Petitioner then provides a listing of only six references. While petitioner has provided further details in regard to the six references cited in section 9(A), there remain twenty-two cited references on the originally filed IDS that have not been discussed in items 9(B) or 9(C). It is further noted that there is no provision for amending, substituting, or removing the IDS submitted and therefore all 28 references have been cited and must be discussed in the ESD.

Applicant is encouraged to review the Frequently Asked Questions concerning the Accelerated Examination Program posted on www.uspto.gov. Specifically, note the question and answer reproduced below:

> **Will the Office accept an accelerated examination support document (AESD) that contains a list of references in the information disclosure statement (IDS) of the AESD, but does not include any identification and explanation for those references that are not required to be submitted in the IDS of the AESD (*i.e.* references that are not most closely related to the subject matter of each of the claims)?**
>
> No, the AESD will be deemed insufficient for lack of identification and explanation. The applicant will be notified of the defects and the application will remain in the status of a new application awaiting action in its regular turn. The

applicant will be given a time period of one month, without any extension of time under 37 CFR 1.136(a), to perfect the petition.

If applicant wishes to cite references that are not required in an AESD for the examiner to consider, applicant may submit such references in a separate IDS in compliance with 37 CFR 1.97 and 1.98. Applicant should clearly identify the IDS of the AESD that is in support of the petition to make special and, similarly, applicant should clearly identify the separate IDS that is not in support of the petition. Consistent with 37 CFR 10.18, any reference submitted in a separate IDS that is not part of an AESD will be treated as a representation by applicant to the USPTO that no reference submitted in the separate IDS is deemed closer to the subject matter of at least one claim than the references provided in the AESD.

Accordingly, the Accelerated Examination Support Document remains deficient. In accordance with items 6.2 and 6.3 above, the necessary detailed discussions must be in regard to *each* cited reference.

DECISION

For 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 Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Albert Hasper	: DECISION ON REQUEST FOR
Patent Number	: 7629256	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Stuttard, Williams, O'Dea, Faulds, Rhodes, Cameron, Atkin, :
Winser, David, McConnell, Day, and Greer :
Application No.: ~~11/478,367~~ **11/748,367** : DECISION ACCORDING
Filed: May 14, 2007 : RULE 47(a) STATUS
Attorney Docket No: HASE0013 :
For: PARALLEL DATA PROCESSING APPARATUS

This is in response to the petition under 37 CFR 1.47(a), filed August 6, 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 May 14, 2007, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 4, 2007, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on August 6, 2007.

Petitioner has shown that inventor Atkin cannot be located after a diligent effort to join the filing of the above-identified application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

Deposit account 07-1445 will be charged $200.00 for the petition fee.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Phil Atkin
Temple Cottage
Nashdom Lane
Slough, Berkshire SL 1 8NJ
UNITED KINGDOM

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Stuttard, Williams, O'Dea, Faulds, Rhodes, Cameron, Atkin, :
Winser, David, McConnell, Day, and Greer :
Application No.: ~~11/478,367~~ **11/748,367** : LETTER
Filed: May 14, 2007 :
Attorney Docket No: HASE0013 :
For: PARALLEL DATA PROCESSING APPARATUS

Dear Inventor Atkin:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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KNOBBE, MARTENS, OLSEN
& BEAR, LLP
2040 MAIN STREET
IRVINE, CA 92614

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Lawrence KATES :
Application No. 11/748,388 : DECISION ON PETITION
Filed: May 14, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. KATES.009C1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 25, 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 signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred back to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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TREGO, HINES & LADENHEIM, PLLC
9300 HARRIS CORNERS PARKWAY
SUITE 210
CHARLOTTE, NC 28269-3797

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Charles L. RICHARDSON, et al :
Application No. 11/748,425 : DECISION ON PETITION
Filed: May 14, 2007 : TO WITHDRAW
Attorney Docket No. 1003/1US : FROM RECORD
:

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, 2008.

The request is **APPROVED**.

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

The request was signed by Jonathan M. Hines on behalf of all attorneys of record who are associated with Customer No. 68553.

All attorneys/agents associated with the Customer No. 68553 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 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.

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR. CHARLES L. RICHARDSON
TRANSWORLD MED CORPORATION
13950 BALLANTYNE CORPORATE PLACE
SUITE 120
CHARLOTTE, NC 28277

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/748,425	05/14/2007	Charles L. Richardson	1003/1US

CONFIRMATION NO. 6411

POWER OF ATTORNEY NOTICE

68553
TREGO, HINES & LADENHEIM, PLLC
9300 HARRIS CORNERS PARKWAY
SUITE 210
CHARLOTTE, NC 28269-3797

OC000000028847428

Date Mailed: 03/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2008.

- 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.

/dcgoodwyn/

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

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SEP 30 2009

OFFICE OF PETITIONS

ALTERA LAW GROUP, LLC
220 S 6 ST SUITE 1700
MINNEAPOLIS MN 55402

In re Application of

RICHARDSON, Charles L. et al.
Application No. 11/748,425
Filed: May 14, 2007
Attorney Docket No. 3865.72-US-03

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that act (1) noted in the above-identified certifications have been performed.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LIFESCIENCE SOLUTIONS, LLC**
13950 BALLANTYNE CORPORATE PLACE
SUITE 120
CHARLOTTE NC 28277

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ALTERA LAW GROUP, LLC
220 S 6 ST SUITE 1700
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
RICHARDSON, Charles L. et al. :
Application No. 11/748,425 : DECISION ON PETITION
Filed: May 14, 2007 : TO WITHDRAW
Attorney Docket No. **056510/380884** : FROM RECORD
:

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 06, 2009.

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 **ALTERA LAW GROUP, LLC** has been revoked by the assignee of the patent application on October 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

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

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO CA 92122

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OFFICE OF PETITIONS

In re Application of :

ZHENG, Yu "Brian" et al. :
Application No. 11/748,428 : DECISION ON PETITION
Filed: May 14, 2007 : TO WITHDRAW
Attorney Docket No. **44435-0003** : FROM RECORD
:

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 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. 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 Steven Moore on behalf of all attorneys of record who are associated with customer No. 33123. All attorneys/agents associated with the Customer Number 33123 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: **YU "BRIAN" ZHENG**
19901 TENNESSEE TRAIL
WALNUT CA 91789

cc: **PATENT CATEGORY CORPORATION**
ATTN: THOMAS DOVER
368 S. CHERYL LANE
CITY OF INDUSTRY CA 91789

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
David W. MARTIN JR., et al :
Application No. 11/748,432 : DECISION ON PETITION
Filed: May 14, 2007 : TO WITHDRAW
Attorney Docket No. AVID1100-1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2008.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP, has been revoked by the assignee of the patent application on December 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AVIDBIOTICS CORPORATION
300 UTAH AVENUE, SUTE 150
SOUTH SAN FRANCISCO, CA 94080

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

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of
Kjell Eriksson
Application No. 11/748,434
Filed: May 14, 2007
Attorney Docket No. 103613-010300

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 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Franklin D. Ubell on behalf of all attorneys of record who are associated with customer number 33717. All attorneys/agents associated with Customer number 33717 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 30, 2010 that requires a reply from the applicant.

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

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

cc: KJELL ERIKSSON
C/O AMERICAN RESEARCH AND DEVELOPMENT INSTITUTE, INC.
1746 MOOREPARK DRIVE
BREA, CA 92821

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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
11/748,434	05/14/2007	Kjell Eriksson	103613-010300

CONFIRMATION NO. 6427

POWER OF ATTORNEY NOTICE

33717
GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

OC000000041965573

Date Mailed: 06/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2010.

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

/amwise/

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

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Vista IP Law Group, LLP
2040 Main Street, 9th Floor
Irvine, CA 92614

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
David K.L. Peterson :
Application No. 11/748,436 : DECISION ON PETITION
Filed: May 14, 2007 : TO WITHDRAW
Attorney Docket No. 06-01448-01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates Bryant R. Gold and Laura Haburay Bishop and all attorneys listed on the request do not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bryant R. Gold
Laura Haburay Bishop
Fish and Richardson
25129 Rye Canyon Loop
Valencia, CA 91355

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Dana M. Gebhart et al.	:	
Application No. 11/748,437	:	DECISION ON PETITION
Filed: May 14, 2007	:	TO WITHDRAW
Attorney Docket No. AVID1110	:	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 24, 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 Kenneth E. Jenkins and all attorneys/agents of record have been revoked by the assignee of the patent application on December 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: AvidBiotics Corporation
300 Utah Avenue, Suite 150
South San Francisco, CA 94080

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/2/09 Paper No.: —

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/748464 Patent No.: 7454084 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: Agreed that all errors were made by the PTO. — Y. Hung 9/8/09

SPE 2624 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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YING CHEN
Chen Yoshimura LLP
255 S. GRAND AVE.
215
LOS ANGELES, CA 90012

Mail Date: 04/20/2010

Applicant	: Chao-Hsuan Hsueh	: DECISION ON REQUEST FOR
Patent Number	: 7577776	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,488	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/748,489	05/15/2007	Eric Lapuyade	3689.ACCESS.ASA.CON	6518

7590 09/09/2008

BERRY & ASSOCIATES P.C.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

EXAMINER	
GAFFIN, JEFFREY A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
09/09/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/10/2008 BPOWELL
05/15/2007 INTEFSW 00001006 503102 11748489
02 FC:1111 500.00 CR

Refund Ref:
09/10/2008 0030060914

Credit Card Refund Total: $255.00

Am Exp..: XXXXXXXXXXX1022

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.
11/748,594	05/15/2007	Jean Charles LAUGT	CU-5706	6719

7590 10/16/2009

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER
TOMPKINS, ALISSA JILL

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
10/16/2009	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: 10/16/2009 NFARMER
05/15/2007 INTEFSW 00002179 120400 11748594
02 FC:1111 500.00 CR

Adjustment date: 10/16/2009 NFARMER
08/22/2007 WASFAW1 00000039 120400 11748594
03 FC:1203 360.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/748,607	05/15/2007	Yuichiro Sasaki	061282-0265	6748

53080 7590 06/15/2007

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER	
ART UNIT	PAPER NUMBER
2881	

MAIL DATE	DELIVERY MODE
06/15/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

JUN 15 2007

In re Application of:	:	
SASAKI et al.	:	DECISION ON PETITION TO
Serial No.: 11/748,607	:	MAKE SPECIAL FOR NEW
Filed: May 15, 2007	:	APPLICATION UNDER 37
Title: PLASMA DOPING METHOD AND PLASMA DOPING APPARATUS	:	C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the petition filed on May 15, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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; 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 conditions I. 1-4 and II. 1-5 above are considered to have been met. However, the petition fails to comply with the all the conditions set forth in II. 6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II. 6, the support document supplied by petitioner does not satisfy the requirements set forth in items 6.2 and 6.3. The support document is required to discuss each reference cited on the IDS (i.e., references deemed most closely related to the subject matter of the claims – item 6.1), including 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 (item 6.2). The statement that the reference does not teach, followed by a recitation of the claim is insufficient. Specifically, the petition does not identify, for example, the limitation found in the Sasaki 1 reference of the plasma-doping apparatus having an inner wall coated with a film containing an impurity or that the substrate is a semiconductor substrate. A grantable petition requires 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.

Item 6.3 requires a detailed description of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c). 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." The IDS submitted with the petition lists 3 U.S. patents, 4 U.S. pre-grant patent publications, 8 foreign patent documents and 5 non-patent references. The support document, however, discusses only five of the references, Sasaki 1, Satoh et al., Okumura et al., Gwinn and Takahashi. Each reference should be discussed indicating what it does disclose and then a detailed description of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c).

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, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petition 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 inquiries regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

AUG -9 2007

In re Application of:
SASAKI et al.
Serial No.: 11/748,607
Filed: May 15, 2007
Title: PLASMA DOPING METHOD AND PLASMA DOPING APPARATUS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the request for reconsideration of the petition to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d) filed July 16, 2007. The petition to make special under 37 C.F.R. § 1.102(d) was dismissed on June 15, 2007.

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 CFR 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 CFR 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.

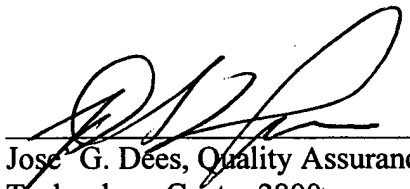
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.



Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

DECISION ON PETITION ROUTING SLIP

Application No.: 11748607

Art Unit: 2881

For Director's Secretary:

☑ **Granted** ☐ **Denied** ☐ **Dismissed**

- ☐ Decision to be reviewed and signed by Director
- ☐ Mail Decision & enter decision in Petition Database
- ☐ Forward a copy of the mailed decision to IFW for scanning
- ☐ Enter Paper Nos [ ] and the decision in PALM
- ☐ Other

For TECH Support Staff:

- ☐ Process and enter Paper Nos.
- ☐ Charge [ ] fee to D.A. No
- ☐ Other
- ☐ Forward file to

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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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.
11/748,617	05/15/2007	Myung-Ok KIM	123037-0002	6766

22429 7590 05/06/2010

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

EXAMINER	
PARKER, ALLEN L	

ART UNIT	PAPER NUMBER
2893	

MAIL DATE	DELIVERY MODE
05/06/2010	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
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DECISION ON PETITION

Yoon S. Ham
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

In re Application of
Myung-Ok KIM et al.
Serial No. 11/748,617
Filed: May 15, 2007
For: Method for Fabricating Bulb-Shaped Recess Pattern

This is a decision on the request for acceptance of color drawings under 37 C.F.R. §§ 1.84(a)(2) and (b)(2) filed July 12, 2007.

The petition has been reviewed and it is found to be in compliance with the requirements as set forth in 37CFR §§1.84 (a)(2) and b (2). Black and white copies of the color drawings are provided in the application and triplicates of the color drawings of each figure have also been provided. The Brief Description of the Drawings section of the specification is amended to insert as the first paragraph to state

The file of this patent contains at least one drawing executed in color photograph. Copies of this patent with color photograph(s) will be provided by the U. S. Patent and Trademark Office upon request and payment of the necessary fee.

The required fee for the petition has been paid.

PETITION GRANTED.

Davienne Monbleau

Davienne Monbleau
Supervisory Patent Examiner
Art Unit 2893

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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Send note to SPE

APPLICATION NO.	FILING DATE	OR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/291,917	11/13/2008		011975/USA/SBG/SOLAR-C/AG	2924

44257 7590 (
PATTERSON & SHERIDAN,
3040 POST OAK BOULEVAR
HOUSTON, TX 77056

EXAMINER
REAMES, MATTHEW L

ART UNIT	PAPER NUMBER
2893	

MAIL DATE	DELIVERY MODE
05/06/2010	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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Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

MAILED

JAN 21 2010

OFFICE OF PETITIONS

In re Application of :
Eric Tosaya, et. al. :
Application No. 11/748,618 : DECISION ON PETITION
Filed: May 15, 2007 : TO WITHDRAW FROM
Attorney Docket No. P3704US00 : RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed November 21, 2009.

The request is **NOT APPROVED**.

It is noted that petitioner did not make all the required certifications. However, since the assignee revoked the previous power of attorney on December 4, 2009, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

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

This application file is being referred to Technology Center Art Unit 2894 for review of the amendment filed on January 7, 2010.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Timothy M. Honeycutt
P.O. Box 1577
Cypress, TX 77410-1577

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF ALBERT WAI-KITCHAN, LLC
WORLD PLAZA, SUITE 604
141-07 20TH AVENUE
WHITESTONE, NY 11357

COPY MAILED
DEC 03 2008

Applicant: Capograssi
Appl. No.: 11/748,632
Filing Date: May 15, 2007
Title: USE OF HMGB1 TO PROMOTE STEM CELL MITRATION AND/OR PROLIFERATION
Attorney Docket No.: 1014-A-PCT-US
Pub. No.: 2007/0238663 A1
Pub. Date: October 11, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on December 11, 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 (703) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Robert A. Betzold	: DECISION ON REQUEST FOR
Patent Number	: 7599740	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 07/26/2010

Applicant	: Rubil Ahmadi	: DECISION ON REQUEST FOR
Patent Number	: 7649395	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/748,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **47** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Nobuo Miyadera	: DECISION ON REQUEST FOR
Patent Number	: 7577328	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,697	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/748,724	05/15/2007	Albert Santos	1760-370	6949

32905 7590 02/06/2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
02/06/2009	PAPER

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

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

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FEB 0 6 2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Albert Santos
Serial No.: 11/748,724
Filed: May 15, 2007
Attorney Docket No.: 1760-370

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed February 2, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on January 14, 2009 (artifact stamped February 2, 2009), be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OCT 0 6 2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Albert Santos
Serial No.: 11/748,724
Filed: May 15, 2007
Attorney Docket No.: **1760-370**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 30, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on February 2, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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VERMETTE & CO.
SUITE 320 - 1177 WEST HASTINGS STREET
VANCOUVER BC V6E2K-3 CA CANADA

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Gerald Sackett :
Application No. 11/748,747 :
Filed: May 15, 2007 :
Attorney Docket No. 2533-100 :

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 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Clifford W. Vermette on behalf of all practitioners of record who are associated with Customer Number 32084.

All attorneys/agents associated with the Customer Number 32084 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 Alicia Kelley at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: GERALD SACKETT
2288 ROSEHILL CHURCH LANE
CHARLOTTESVILLE, VA 22902

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/748,747	05/15/2007	Gerald Sackett	

CONFIRMATION NO. 6993

POWER OF ATTORNEY NOTICE

32084
VERMETTE & CO.
SUITE 320 - 1177 WEST HASTINGS STREET.
VANCOUVER, BC V6E2K3
CANADA

OC000000036772016

Date Mailed: 07/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2009.

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

/atkelley/

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

Paper No.: _____

DATE : 6/22/09

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11748753 Patent No.: 7529039 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Ricky Mack/ 2873
SPE Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/748,762	05/15/2007	Albert Santos	1760-371	7014

32905 7590 02/06/2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
02/06/2009	PAPER

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

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

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

FEB 0 6 2009

In re Application of:
Albert Santos
Serial No.: 11/748,762
Filed: May 15, 2007
Attorney Docket No.: 1760-371

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed February 2, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on January 14, 2009 (artifact stamped February 2, 2009), be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OCT 2 2 2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Albert Santos
Serial No.: 11/748,762
Filed: May 15, 2007
Attorney Docket No.: **1760-371**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed October 19, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on February 2, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Langen, Khan, Wilkiewicz :
Application No.: 11/748,767 : DECISION ACCORDING
Filed: May 15, 2007 : RULE 47 STATUS
Invention: **HITLESS APPLICATYION UPGRADE FOR SIP SERVER ARCHITECTURE**

This is in response to the petition under 37 CFR 1.47(a), filed December 3, 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 May 15, 2007, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 1, 2007, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed and payment of a surcharge. The instant petition was filed on December 3, 2007, with a request for an extension of time within the fourth month.

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

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

This application will be forwarded to the Office of Patent Application Processing for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of :
Rappold-Hoerbrand, et al. :
Application No. 11/748,769 :
Filed: May 15, 2007 :
Attorney Docket No. 2951-141 :

ON PETITION

This is regarding the "Petition under 37 CFR 1.57" filed December 15, 2008, which is being treated as a petition under 37 CFR 1.53(e) requesting that the Office accord the above-identified non-provisional application a filing date of May 15, 2007.

On May 15, 2007, applicants deposited the above-identified non-provisional application without drawings. On October 24, 2008, the Office mailed a Notice of Incomplete Non-Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings, and stating that the filing date would be the date of receipt of the omitted drawings.

Applicants submit, however, that the subject application incorporated by reference the entirety of a previously filed PCT application which contained the drawings.

A review of the non-provisional application papers deposited on May 15, 2007, reveals that the application contains at least one method claim. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a non-provisional application that contains at least one 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).

MPEP § 601.01(f) also states:

> 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.

As this application contains method claims, it 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 Notice of Incomplete Non-Provisional Application was sent in error as to the drawings. The above-identified application may be accorded a filing date of May 15, 2007, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above.

The petition fee of $400.00 will be refunded to deposit account 02-2135.

The Office of Patent Application Processing has been advised of this decision. Pursuant to this decision, the application has been referred to the Office of Patent Application Processing for correction of the filing date to May 15, 2007, indication in Office records that no sheets of drawings were present on filing, and for issuance of a filing receipt.

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

Anthony Knight
Supervisor
Office of Petitions

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

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of :
Anno R. Langen, Rao Nasir Khan, :
John D. Beatty and Ioannis Cosmadopoulos :
Application No.: 11/748,791 :
Filed: May 15, 2007 :
Attorney Docket No. BEAS-02062US1 :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 14, 2007, to allow the other inventor(s) to proceed with the application on behalf of themselves and the nonsigning inventors.

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 inventors, Anno R. Langen and John D. Beatty have refused to join in the filing of the above-identified application.

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

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed December 5, 2007.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ANNO R. LANGEN
973 INDIAN ROCK AVENUE
BERKELEY, CA 94707

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of
Anno R. Langen, Rao Nasir Khan, John D. Beatty
and Ioannis Cosmadopoulos
Application No. 11/748,791
Filed: May 15, 2007
For: ENGINE NEAR CACHE FOR REDUCING LATENCY IN A TELECOMMUNICATIONS ENVIRONMENT

Dear Mr. Langen:

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

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

Telephone inquiries regarding this communication should be directed to (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

JOHN D. BEATTY
765 BARNEGAT LANE
REDWOOD CITY, CA 94065

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of
Anno R. Langen, Rao Nasir Khan, John D. Beatty
and Ioannis Cosmadopoulos
Application No. 11/748,791
Filed: May 15, 2007
For: ENGINE NEAR CACHE FOR REDUCING LATENCY IN A TELECOMMUNICATIONS ENVIRONMENT

Dear Mr. Beatty:

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

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

Telephone inquiries regarding this communication should be directed to (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Alexandria, VA 22313-1450
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ABBOTT CARDIOVASCULAR SYSTEMS INC./
FINNEGAN HENDERSON L.L.P.
901 NEW YORK AVENUE , N.W.
WASHINGTON DC 20001

3/6/09

In re Application of:
SIMPSON, JOHN A. et al
Serial No.: 11/748,797
Filed: May 15,2007
Docket: 01035.0051-00
Title: RADIOPAQUE MARKERS COMPRISING BINARY ALLOYS OF TITANIUM

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on February 3, 009, seeking to suspend action on the above-identified application for a period of not greater than six months. This petition is being considered pursuant to 37 CFR § 1.103.

The petition is dismissed.

The record shows that:

1) On May 17, 2007, the applicant filed the instant application.
2) On February 3, 2009, the applicant filed the current petition to suspend office action to provide additional time to engage a new counsel for filing supplemental papers.

In the petition, petitioner alleges that the applicant is engaging a new counsel and is in the process of transferring of the patent application files and preparation of supplemental paper.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Applicant has failed to outline where he presently stands in the engagement of a new patent counsel and preparation of supplemental paper. Petitioner fails to establish why, in particular, a six-month suspension of action will advance the engagement of a new patent counsel and preparation of paper. Petitioner also fails to explain what the supplemental paper is. Accordingly, petitioner has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3734 for examination of the application and preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Karen M. Young, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
KOLKER, Hal :
Application No. 11/748,855 : DECISION ON PETITION
Filed: May 15, 2007 : TO WITHDRAW
Attorney Docket No. **103569-010100** : FROM RECORD
:

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 1, 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 Charles Berman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Hal Kolker at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: HAL KOLKER
20495 ROCA CHICA DRIVE
MALIBU, CA 90265

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DEC 0 8 2009

OFFICE OF PETITIONS

SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

In re Application of :
Christopher M. GARDELL :
Application No. 11/748,870 : DECISION ON PETITION
Filed: May 15, 2007 :
Attorney Docket No. NWK4356 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 05, 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 August 19, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 19, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 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 payment of the issue fee of $755.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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
DIW Feb-08

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

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FEB 19 2008

In re Application of	:	
Singh, Duan, Thorsteinsson,	:	DECISION ACCORDING STATUS
Friedman, and Gurney	:	UNDER 37 CFR 1.47(a)
Application Number: 11/748897	:	
Filing Date: 05/15/2007	:	
Attorney Docket Number:	:	
2391.013A	:	

This is in response to the petition under 37 CFR 1.47(a) filed on December 28, 2007.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Mitchell B. Friedman, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown, via the declaration of registered patent practitioner Charles E. Bell, that a copy of the application was sent to the last known address for the non-signing inventor. The non-signing inventor failed, however, to sign and return the declaration naming him as a joint inventor along with Jasbir Singh, Matt Shaoming Duan, Thorsteinn Thorsteinsson, and Mark Gurney.

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

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

The application is being referred to the Office of Patent Application Processing 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
www.uspto.gov
DIW Feb-06

Mitchell B. Friedman
547 Coventry Lane
Buffalo Grove IL 60089

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FEB 19 2008

In re Application of
Singh et al.
Application No. 11/748,897
Filed: May 15, 2007
For: 7-(ACROLOYL) INDOLE COMPOSITIONS AND METHODS OF USE

Dear Mr. Friedman:

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

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

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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.
11/748,912	05/15/2007	Nobuhiro YABUNOUCHI	308808US0	7286

7590 06/04/2009

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

EXAMINER	
YAMNITZKY, MARIE ROSE	

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
06/04/2009	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

Refund Ref:
06/04/2009 0030070811

Credit Card Refund Total: $860.00

Am Exp..: XXXXXXXXXXX1002

Adjustment date: 06/04/2009 NFARMER
05/16/2007 INTEFSW 00000769 11748912
02 FC:1111 -500.00 OP
04 FC:1203 -360.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Norbert Huber	: DECISION ON REQUEST FOR
Patent Number	: 7649724	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/748,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2007	: 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

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PERKINS COIE LLP
PATENT-SEA
PO BOX 1247
SEATTLE WA 98111-1247

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MAR 02 2010

In re Application of	:	
Eric Tan Swee Seng	:	
Application No. 11/748979	:	ON NOTIFICATION REGARDING
Filing or 371(c) Date: 05/15/2007	:	DETERMINATION OF
Attorney Docket Number: 108298739US1	:	PATENT TERM ADJUSTMENT

This letter is in response to the "Notification Regarding Determination of Patent Term Adjustment under 35 U.S.C. 154(b)," filed October 14, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is thirty eight (38) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed July 16, 2009 indicated that the above-identified application was entitled to a PTA of 129 days. Applicants indicate that the adjustment of 129 days is longer than appropriate.

The adjustment of 160 days is not in dispute.

The Office errantly neglected to assess a reduction in accordance with 37 CFR 1.704(b) in connection with the Response to Notice to File Missing Parts of Application, filed December 4, 2007. The reduction, 91 days, commenced September 5, 2007, the day after the date that is three months after the Notice to File Missing Parts of Nonprovisional Application was mailed, and ended December 4, 2007, the date that the Response to Notice to File Missing Parts of Application was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **thirty-eight (38) days**, (160 days of PTO delay, reduced by 122 days (91 + 31) of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

The file is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/ALESIA M. BROWN/

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

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 11/748979			
Application Filing Date:	05/15/2007	PTO Delay (PTO):	160
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	38
PTO Delay Adjustment:	-91		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	02/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
34	07/16/2009	MAIL NOTICE OF ALLOWANCE			
33	07/15/2009	ISSUE REVISION COMPLETED			
32	07/15/2009	DOCUMENT VERIFICATION			
31	07/15/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	07/15/2009	CASE DOCKETED TO EXAMINER IN GAU			
29	07/15/2009	NOTICE OF ALLOWABILITY			
25	05/05/2009	DATE FORWARDED TO EXAMINER			
24	04/22/2009	RESPONSE AFTER NON-FINAL ACTION		31	22
23	04/22/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	12/22/2008	MAIL NON-FINAL REJECTION	160		-1
21	12/19/2008	NON-FINAL REJECTION			
20	12/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
18	04/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	04/01/2008	TRANSFER INQUIRY TO GAU			
16	03/28/2008	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	12/04/2007	PRELIMINARY AMENDMENT			
14	12/04/2007	REFERENCE CAPTURE ON IDS			
13	12/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/20/2008	PG-PUB ISSUE NOTIFICATION			
11	01/16/2008	APPLICATION DISPATCHED FROM OIPE			
10	12/13/2007	SENT TO CLASSIFICATION CONTRACTOR			
9	12/13/2007	FILING RECEIPT - UPDATED			
8	12/04/2007	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	12/04/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/15/2007	CLAIM PRELIMINARY AMENDMENT			
5	12/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	06/04/2007	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/24/2007	CLEARED BY OIPE CSR			

2	05/21/2007	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/15/2007	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/748,998	05/15/2007	George Roukis	P00262 (18690US01)	7416

23446 7590 07/06/2010
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER	
THOMAS, ERIC M	
ART UNIT	**PAPER NUMBER**
3714	

MAIL DATE	DELIVERY MODE
07/06/2010	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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of ROUKIS, GEORGE et al
Appl. No.: 11/748,998
Filed: May 15, 2007
For: GAMING SYSTEM WITH SUSPENSE FEATURE

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed June 2, 2010, to expunge information from the above identified application. The petition fee $200.00 as set forth in 37 CFR 1.17(g) has been charged to eh Deposit Account as authorized.

The petition is dismissed.

Petitioner requests that an RCE filed on June 1, 2010 be expunged from the record because the RCE was inadvertently and prematurely filed. The last Office action mailed Nov. 30, 2009 was not a final Office action. Therefore, the RCE was filed in error and should be expunged.

The petition is deficient because:

1) the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted,

2) the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information, and

3) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements.

Any questions regarding this petition decision should be directed to Henry C. Yuen, Technology Center 3700 Special Programs Examiner at 571-272-4856.

PETITION DISMISSED.

Corrine McDermott

for Donald T. Hajec, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

UNITED STATES PATENT AND TRADEMARK OFFICE

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Holme Roberts & Owen LLP-Client-1
1700 Lincoln Street, Suite 4100
Denver, CO 80203

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	NOTICE
Application No. 11/749039	:	
Filing/371(c) Date: 05/15/2007	:	
Attorney Docket Number: 85.0145	:	

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRW Jan-08

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

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Langen, Mehra, and Khan	:	DECISION REFUSING STATUS
Application Number: 11/749082	:	UNDER 37 CFR 1.47(a)
Filing Date: 05/15/2007	:	
Attorney Docket Number: BEAS-02060US1	:	

This is in response to the petition under 37 CFR 1.47(a) filed on December 5, 2007.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 15, 2007, without an executed oath or declaration. Accordingly, on June 5, 2007, the Office of Patent Application Processing (OPAP) mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on December 5, 2007, a four (4) month extension of time was filed, along with the extension of time fee, the surcharge, and the present petition under 37 CFR 1.47(a) and petition fee. A declaration naming Anno R. Langen, Vinod Mehra, and Rao Nasir Khan as filed, signed by joint inventors Mehra and Kahn on behalf of themselves and non-signing joint inventor Langen.

Petitioners assert that a copy of the application papers was sent the non-signing inventor on June 7, 2007, and again on September 20, 2007, but that the non-signing inventor has failed to sign and return the declaration. Petitioners have enclosed copies of the cover letters transmitting the application papers to the non-signing inventor.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventors.

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.[1] Specifically, there are undated alterations in the signature block for joint inventor Mehra. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the inventor to whom the corrections pertain (*i.e.*, joint inventor Mehra) must be provided with any renewed petition.

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

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

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

---

[1] See 37 CFR 1.52(c).

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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
DIW Apr-08

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

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APR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Langen, Mehra, and Khan	:	DECISION ACCORDING STATUS
Application Number: 11/749082	:	UNDER 37 CFR 1.47(a)
Filing Date: 05/15/2007	:	
Attorney Docket Number: BEAS-02060US1	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on March 17, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Anno R. Langen, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown that a copy of the application was sent on two occasions to the last known address for the non-signing inventor. The non-signing inventor failed, however, to sign and return the declaration naming him as a joint inventor along with Vinod Mehra and Rao Nasir Kahn.

As such, the showing of record is that the non-signing inventor constructively refused to sign the declaration.

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

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

The application is being referred to the Office of Patent Application Processing 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
www.uspto.gov
DIW Apr-08

Anno R. Langen
973 Indian Rock Avenue
Berkeley CA 94707

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of
Langen et al.
Application No. 11/749,082
Filed: May 15, 2007
For: SIP AND HTTP CONVERGENCE IN NETWORK COMPUTING ENVIRONMENTS

Dear Mr. Langen:

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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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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LAWRENCE R. OREMLAND, P.C.
5055 E. BROADWAY BLVD.
SUITE C-214
TUCSON AZ 85711

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AUG 22 2008

In re Application of :
Sommovigo et al. :
Application No. 11/749085 :
Filing or 371(c) Date: 05/15/2007 :
Attorney Docket Number: :
6117.102US : ON PETITION

This is a decision on the petition to withdraw (and vacate) the holding of abandonment, filed July 18, 2008. The petition is properly treated as a petition to withdraw the holding of abandonment based upon evidence that a reply was timely filed under 37 C.F.R. § 1.181. See MPEP 711.03.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 20, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on March 21, 2008. A Notice of Abandonment was mailed June 27, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed with a Certificate of Mailing on June 20, 2008, including a three (3) month extension of time. In support of this assertion, applicant files a copy of the reply, which includes a Certificate of Mailing under 37 CFR 1.8, dated June 20, 2008, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of, inter alia, an Amendment, a Request for Three month Extension of Time, and a Credit Card Payment Form for the amount of $525 for the three month extension on June 25, 2008.

Review of Office records

A review of Office records also reveals that the Office received the reply, including an Amendment and three-month Extension of Time and fee on June 25, 2005 (Certificate of Mailing dated June 20, 2008).

Conclusion

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

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2833 for processing of the Amendment, and for continued examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUICKPATENTS, INC.
32861 CALLE PERFECTO
SUITE A
SAN JUAN CAPISTRANO, CA 92675

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth FINEFIELD :
Application No. 11/749,089 : DECISION ON PETITION
Filed: May 15, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. KF70312 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 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.

This application is being referred to the Office Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 06 2010

OFFICE OF PETITIONS

In re Application of :
Morteza Naghavi et al. :
Application No. 11/749,105 :
Filed: May 15, 2007 :
Attorney Docket No. 662-0011US :

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 5, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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Wiesner and Associates
366 Cambridge Avenue
Palo Alto CA 94306

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of :
Stevens et al. :
Application No. 11/749124 : DECISION
Filing or 371(c) Date: 05/15/2007 : ON PETITION
Attorney Docket Number: 00117-000500000 :

This is a decision on the petition to revive a patent application unintentionally abandoned, under 37 CFR 1.137(b), filed November 13, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (Notice), mailed June 5, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 6, 2007. A Notice of Abandonment was mailed February 14, 2008.

With the present petition, Applicant has filed a response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Application Processing for processing of the reply, and for continued processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WPAT, PC
7225 BEVERLY ST.
ANNANDALE, VA 22003

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APR 15 2009

OFFICE OF PETITIONS

In re Application of :
Ming-Han Tsai, et al. :
Application No. 11/749,133 : ON PETITION
Filed: May 15, 2007 :
Attorney Docket No. 18807-014 :

This is a decision in response to the petition, filed February 19, 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 a failure to reply in a timely manner to a non-final Office action mailed April 30, 2008. A Notice of Abandonment was mailed on December 22, 2008. On February 19, 2009, the present petition was filed.

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

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

The application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received February 19, 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

cc: JUSTIN KING
1940 DUKE ST., SUITE 200
ALEXANDRIA, VA 22314

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.
11/749,134	05/15/2007	Louis B. Rosenberg	3502.109	7646

7590 01/09/2009

SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

EXAMINER	
GAFFIN, JEFFREY A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
01/09/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 01/14/2009 BPOWELL
05/16/2007 INTEFSW 00001392 11749134
02 FC:2111 -250.00 OP
04 FC:2202 -1200.00 OP

Adjustment date: 01/14/2009 BPOWELL
05/16/2007 INTEFSW 00001392 11749134
02 FC:2111 -250.00 OP
04 FC:2202 -1200.00 OP

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/749,137	05/15/2007	Louis B. Rosenberg	3502.111	7649

7590 09/09/2009

SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

EXAMINER	
VO, PETER DUNG BA	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
09/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
09/11/2009 3030074243

Credit Card Refund Total: $975.00

VISA....: XXXXXXXXXXXX0203

Adjustment date: 09/11/2009 NFARMER
05/16/2007 INTEFSW 00001402 11749137
02 FC:2111 -250.00 OP
04 FC:2202 -525.00 OP
05 FC:2201 -200.00 OP

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Alexandria, VA 22313-1450
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NORMAN A. NIXON
BEUSSE BROWNLEE WOLTER
MORA & MAIRE, P.A.
SUITE 2500, 390 NORTH ORANGE AVE.
ORLANDA, FL 32801

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NOV 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul LANE	:	
Application No. 11/749,298	:	DECISION ON PETITION
Filed: May 16, 2007	:	TO WITHDRAW
Attorney Docket No. 10543-002C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 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 Christine Q. McLeod 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 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: PAUL LANE
3380 CARDIGAN COURT
ORLANDA, FL 32812

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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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS, MN 55402

MAIL

JUN 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/749,305
Filed: May 16, 2007

Title: **VARIABLE ERROR CORRECTION IN MULTIPOINT-TO-POINT COMMUNICATION USING ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 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, 5.3, and 6.3.

For these reasons cited above, 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 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/ subclasses: 370/208, 516 and 714/746, 758, 776 and 779.

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because section 9(C) fails to provide a "detailed explanation of how ***each of the claims*** are patentable over each of the references cited with particularity required by 37 CFR 1.111(b) and (c)" (emphasis added). Petitioner does not provide a detailed explanation of patentability of all claims (including the dependent claims) with respect to each reference and if claims do not stand or fall together, how each claim (including the dependent claims) is patentably distinct over the cited prior art in combination with the other cited references. Since petitioner has only argued the patentability of the broadest, independent claims and no separate reasons for patentability are argued in regard to any of the dependent claims, it is presumed that petitioner believes that all claims stand or fall together. If this is not accurate, then any request for reconsideration must provide a detailed explanation in regard to ***each of the claims*** as set forth in item 6.3 above.

Petitioner's statement that applicant is prepared to swear behind the Grube reference is noted. Although this statement is not a statement within the meaning of 37 CFR 1.111(b) it is accepted contingent upon the filing of acceptable affidavit(s) under 37 CFR 1.131. The affidavit(s) should be presented in a timely manner, preferably prior to first Office action. Failure to timely submit acceptable affidavit(s) would likely result in the application of Grubbe et al *vis-a-vis* one or more of the instant claims.

If any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5.2 and 5.3 above, and the Preexamination Search Document must be amended to indicate such; and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above.

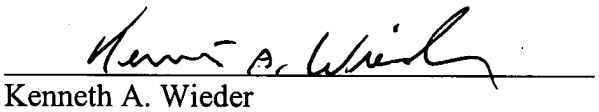
DECISION

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 Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.



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TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/749,305
Filed: May 16, 2007

Title: **VARIABLE ERROR CORRECTION IN MULTIPOINT-TO-POINT COMMUNICATION USING ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING**

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 July 16, 2007 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

All of the requirements to correct the deficiencies outlined in the petition decision mailed June 19, 2007 have been met.

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 CFR 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 CFR 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 CFR 1.181, 182 or 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 Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
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AUG 24 2007

In re Application of: BURPEE et al.
Serial No.: 11/749,306
Filed: May 16, 2007
Title: FLEXIBLE STENT

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 and II: 1-4, 5.1, 5.3, 6.1, 6.4, and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2, 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.

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document pages 1-67, the Pre-Examination Search Statement pages 1-4, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on May 16, 2007.

Regarding the requirements of section II element 5.2 outlined above, a pre-examination search has been conducted by the petitioner in class 623, subclasses 1.15, 1.16, 1.18, 1.19, 1.2, 1.21, and 1.22. Petitioner has omitted a critical search area by not searching class 623 subclass 1.13 which is of particular significance with respect to claim 17. The search has not included any areas of Non-Patent Literature and also has not included any statement as to why no search was conducted in any such areas. It is further noted that the independent claims are of such a broad and encompassing nature that the expected search areas for such claims would cover vast amounts of art. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-20 have been specifically searched. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. The petition provides a confusing showing of limitations of the claims disclosed by each reference by not always specifying what is disclosed and instead listing "No" in the chart next to entire claim limitations. For example, look to the discussion of the disclosure of US Patent 5449373 with respect to claim 1. For the entire preamble of the claim, applicant has indicated "No" in the chart, presumably indicating that none of the preamble is disclosed by this reference; for the next limitation of claim 1, "a plurality of individual helical elements wound about said axis of said stent" applicant has indicated this is disclosed by the reference by stating "Yes, links 112". This is lacking in many essential details. Most notably, this fails to make clear whether or how the reference can teach "said axis of said stent" when none of the preamble has been indicated as disclosed by the reference. It is likewise unclear to which claim elements 112 corresponds and how it is the same or different from what is claimed. In fact, with respect to claim 1, all applicant has really identified the US 5449373 reference as disclosing is "Yes, links 112". It appears that these deficiencies occur for every reference which is discussed in the ESD; only one example is provided for the sake of brevity yet every instance is deficient. A grantable petition requires 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. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This analysis should be done for each claim for a grantable petition. That a limitation may be, in petitioner's opinion, lacking from a reference when comparing the reference to an independent claims does not exempt petitioner from the remaining analysis of what the reference discloses with respect to each claimed limitation in the remaining dependent claims.

Regarding 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 references with particularity required by 37 CFR 1.111(b) and (c). For example, look to the discussion of the disclosure of US Patent 5449373 with respect to claims 1-20. While the petitioner makes specific reference to the limitations of claims 1, 3, 5-8, 10-15, and 17-20, there is no detailed explanation with respect to each of dependent claims 2-4; the petition does not refer to specific limitations of each of these dependent claims which make it separately patentable and also does not explicitly state that the patentability of these dependent claims is based solely on the patentability as discussed with respect to claim 1. Applicant must specifically address each claim by either pointing out that its patentability is predicated solely on its dependence from a (specific) claim which is patentable or that it is separately patentable due to a specific feature of that claim which is argued separately. Also, looking at the discussion of claim 5 and 6 petitioner states that the reference "do not disclose that helical elements are wound in the same or opposite direction of the helical strut member" yet it would seem to be at least obvious, if not inherent, that the elements must be wound in either the same OR opposite direction and therefore it is not clear how these limitations are in fact patentable. Again, only one example is provided for the sake of brevity yet every instance is deficient. As outlined above, all claims must be addressed with at least the same specificity to claim language as is needed to meet the requirement of section II element 6.2 above, and with respect to each cited reference. For reference, a grantable petition must meet the requirements of the practice and such includes a discussion with respect to the claimed subject matter. 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."

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of the specification as well as in each priority document for which benefit under 35 USC is claimed. The petitioner provides in some instances only very broad indication of support; i.e. the entirety of claim 1, other than the preamble, is addressed en masse on the issue of support, without specifically pointing to support for each limitations as required. Yet again, only one example is provided for the sake of brevity yet every instance is deficient. Furthermore, the petition fails to provide this showing with consistently with respect to US 11/397,978, US 11/250,266 and US 60/667,613 to each of which priority is claimed. A grantable petition requires a *complete* showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed.

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 Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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NOV 0 1 2007

In re Application of: BURPEE et al.
Serial No.: 11/749,306
Filed: May 16, 2007
Title: FLEXIBLE STENT

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is 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 CFR 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 CFR 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.

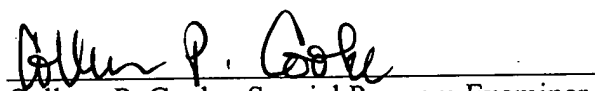
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.



Colleen P. Cooke, Special Program Examiner
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AUG 28 2008

In re Application of: QUIRINO, RICHARD N., et al.
Serial No.: 11/749,321
Filed: May 16, 2007
Title: OCCUPANT CONTROLLED ENERGY MANAGEMENT SYSTEM AND METHOD FOR MANAGING ENERGY CONSUMPTION IN A MULTI-UNIT BUILDING

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 June 28, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), 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 Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, inquiries can be addressed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

Ehud Gartenberg
Special Program Examiner
Technology Center 3700

Encl. copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323)

(2) Activities will be initiated before dusk;

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present;

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels;

(5) A NMFS-approved marine mammal observer will visually monitor the pinnipeds on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of Boeing's activities (see Monitoring); and

(6) To the extent possible, the *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks. The vessel will reduce speed 1.5 to 2 knots (2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

Monitoring

As part of its 2002 application, Boeing provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS proposes the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities;

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out (2 ft, 0.61 m, or less); and

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

Boeing will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, Boeing will provide a report to NMFS within 90 days. This report will provide dates and locations of specific activities, details of seal behavioral observations, and estimates of the amount and nature of all takes of seals by harassment or in other ways. In addition, the report will include information on the weather, the tidal state, the horizontal visibility, and the composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any marine mammal is injured or killed as a result of these activities, Boeing or its designee shall report the incident to NMFS immediately.

Endangered Species Act

This action will not affect species listed under the Endangered Species Act (ESA) that are under the jurisdiction of NMFS. VAFB formally consulted with U.S. Fish and Wildlife Service (FWS) in 1998 on the possible take of southern sea otters during Boeing's harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the proposed activities were not likely to jeopardize the continued existence of the southern sea otter. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the USAF prepared an Environmental Assessment (EA) for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for Boeing's harbor activities in accordance with section 6.01 of the National Oceanic and Atmospheric Administration Administrative Order (NAO) 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). The proposed activity is within the scope of NMFS'2005 EA and FONSI.

Conclusions

NMFS has issued an IHA to Boeing for harbor activities related to the Delta IV/EELV to take place at south VAFB over a 1-year period, contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB (transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation) will result in the Level B Harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals. The effects of Boeing's harbor activities are expected to be in the form of short-term and localized behavioral changes and no take by injury or death is anticipated or authorized. NMFS has further determined that these takes will have a negligible impact on the affected marine mammal species and stocks and will not have an unmitigable adverse impact on the availability of such marine mammal species and stocks for subsistence uses.

Authorization

NMFS has issued an IHA to take marine mammals, by Level B harassment, incidental to conducting harbor activities at VAFB to Boeing for a 1-year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: June 19, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10044 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2006–0014]

Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) has established procedures under which the examination of a patent application may be accelerated. Under one of these procedures, the USPTO will advance an application out of turn for examination if the applicant files a grantable petition to make special under the accelerated examination program. The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the recently announced Patent Prosecution Highway (PPH) pilot program between the USPTO and the Japan Patent Office.

DATES: *Effective Date:* The change in practice in this notice applies to

petitions to make special filed on or after August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Pinchus Laufer, Detailee, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–7726, or by facsimile at (571) 273–7726. Comments concerning petition to make special practice may be sent by electronic mail message over the Internet addressed to *MPEPFeedback@uspto.gov*, or submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313–1450.

Any inquiries concerning electronic filing of the application should be directed to the Electronic Business Center (EBC) at (866) 217–9197. Any inquiries concerning a specific petition to make special should be directed to the appropriate Technology Center Special Program Examiner.

SUPPLEMENTARY INFORMATION: New patent applications are normally taken up for examination in the order of their United States filing date. The USPTO has a procedure for requesting accelerated examination under which an application will be advanced out of turn for examination if the applicant files a petition to make special with the appropriate showing. *See* 37 CFR 1.102 and *Manual of Patent Examining Procedure* § 708.02 (VIII) (8th ed. 2001) (Rev. 3, August 2005) (MPEP). The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the PPH pilot program. Specifically, other petitions to make special (*i.e.*, petitions based on: manufacture, infringement, environmental quality, energy, recombinant DNA, superconductivity materials, HIV/AIDS and cancer, countering terrorism, and biotechnology applications filed by small entities (*see* MPEP § 708.02)) will be processed and examined using the revised procedure for accelerated examination. Thus, all petitions to make special, except those based on applicant's health or age or the PPH pilot program, will be required to comply with the requirements of petitions to make special under the accelerated examination program that are set forth in this notice.

Any petition to make special, other than those based on applicant's health or age or the PPH pilot program, filed on or after the effective date must meet the requirements set forth in this notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. Until the effective date, applicant may file a petition to make special in an application filed before the effective date by complying with the previous guidelines and requirements in MPEP § 708.02 (I–II, and V–XII). A petition to make special filed after the effective date will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in this notice. See Part VIII, for more information on eligibility.

Part I. Requirements for Petitions to Make Special under Accelerated Examination: A new application may be granted accelerated examination status under the following conditions:

(1) The application must be filed with a petition to make special under the accelerated examination program accompanied by either the fee set forth in 37 CFR 1.17(h) or a statement that the claimed subject matter is directed to environmental quality, energy, or countering terrorism. *See* 37 CFR 1.102(c)(2). Applicant should use form PTO/SB/28 for filing the petition.

(2) The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).

(3) The application, petition, and required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-Web. If the USPTO's EFS and EFS-Web are not available to the public during the normal business hours for these systems at the time of filing the application, applicant may file the application, other papers and fees by mail accompanied by a statement that EFS and EFS-Web were not available during the normal business hours, but the final disposition of the application may occur later than twelve months from the filing of the application. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

(4) At the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination. For example, the application must be filed together with the basic filing fee, search fee, examination fee, and application size fee (if applicable), and an executed oath or declaration under 37 CFR 1.63. *See* Part VIII (subsection Conditions for Examination) for more information.

(5) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must also not contain any multiple dependent claims. By filing a petition to make special under the accelerated examination program the applicant is agreeing not to separately argue the patentability of any dependent claim during any appeal in the application. Specifically, the applicant is agreeing that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)). The petition must include a statement that applicant will agree not to separately argue the patentability of any dependent claim during any appeal in the application. See form PTO/SB/28.

(6) The claims must be directed to a single invention. If the USPTO determines that all the claims presented are not directed to a single invention, applicant must make an election without traverse in a telephonic interview. The petition must include a statement that applicant will agree to make an election without traverse in a telephonic interview. See form PTO/SB/28.

(7) The applicant must be willing to have an interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time. The petition must include a statement that applicant will agree to have such an interview when requested by the examiner. See form PTO/SB/28.

(8) At the time of filing, applicant must provide a statement that a preexamination search was conducted, including an identification of the field of search by United States class and subclass and the date of the search, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.

(A) This preexamination search must 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 source and includes such a justification with this statement.

(B) This preexamination search must be directed to the claimed invention and

encompass all of the features of the claims, giving the claims the broadest reasonable interpretation.

(C) The preexamination search must also encompass the disclosed features that may be claimed. An amendment to the claims (including any new claim) that is not encompassed by the preexamination search or an updated accelerated examination support document (*see* item 9) will be treated as not fully responsive and will not be entered. *See* Part IV (Reply by Applicant) for more information.

(D) A search report from a foreign patent office will not satisfy this preexamination search requirement unless the search report satisfies the requirements set forth in this notice for a preexamination search.

(E) Any statement in support of a petition to make special must be based on a good faith belief that the preexamination search was conducted in compliance with these requirements. *See* 37 CFR 1.56 and 10.18.

(9) At the time of filing, applicant must provide in support of the petition an accelerated examination support document.

(A) An accelerated examination support document must include 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.

(B) For each reference cited, the accelerated 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.

(C) The accelerated examination support document must include 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).

(D) The accelerated examination support document must include a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application).

(E) The accelerated examination support document must include a showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 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 U.S.C. 112, ¶ 6; and (2) the structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6. 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 the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.

(F) The accelerated examination support document must identify any cited references that may be disqualified as prior art under 35 U.S.C. 103(c) as amended by the Cooperative Research and Technology Enhancement (CREATE) Act (Pub. L. 108–453, 118 Stat. 3596 (2004)).

Part II. Decision on Petition To Make Special: Applicant will be notified of the decision by the deciding official. If the application and/or petition does not meet all the prerequisites set forth in this notice for the application to be granted special status (including a determination that the search is deemed to be insufficient), the applicant will be notified of the defects and the application will remain in the status of a new application awaiting action in its regular turn. In those instances in which the petition or accelerated examination support document is defective in one or more requirements, applicant will be given a single opportunity to perfect the petition or accelerated examination support document within a time period of one month (no extensions under 37 CFR 1.136(a)). This opportunity to perfect a petition does not apply to applications that are not in condition for examination on filing. *See* Part VIII (subsection Condition for Examination). If the document is satisfactorily corrected in a timely manner, the petition will then be granted, but the final disposition of the application may occur later than twelve months from the filing date of the application. Once a petition has been granted, prosecution will proceed according to the procedure set forth below.

Part III. The Initial Action on the Application by the Examiner: Once the application is granted special status, the application will be docketed and taken up for action expeditiously (*e.g.*, within two weeks of the granting of special status). If it is determined that all the claims presented are not directed to a single invention, the telephone restriction practice set forth in MPEP § 812.01 will be followed. Applicant must make an election without traverse during the telephonic interview. If 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 (the invention of claim 1) as constructively elected without traverse for examination. Continuing applications (*e.g.*, a divisional application directed to the non-elected inventions) will not automatically be given special status based on papers filed with the petition in the parent application. Each continuing application must on its own meet all requirements for special status.

If the USPTO determines that a possible rejection or other issue must be addressed, the examiner will telephone the applicant to discuss the issue and any possible amendment or submission to resolve such issue. The USPTO will not issue an Office action (other than a notice of allowance) unless either: (1) An interview was conducted but did not result in the application being placed in condition for allowance; or (2) there is a determination that an interview is unlikely to result in the application being placed in condition for allowance. Furthermore, prior to the mailing of any Office action rejecting the claims, the USPTO will conduct a conference to review the rejections set forth in the Office action.

If an Office action other than a notice of allowance or a final Office action is mailed, the Office action will set a shortened statutory period of one-month or thirty-days, whichever is longer. No extensions of this shortened statutory period under 37 CFR 1.136(a) will be permitted. Failure to timely file a reply will result in abandonment of the application. *See* Parts V and VI for more information on post-allowance and after-final procedures.

Part IV. Reply by Applicant: A reply to an Office action must be limited to the rejections, objections, and requirements made. Any amendment that attempts to: (1) Add claims which would result in more than three independent claims, or more than twenty total claims, pending in the application; (2) present claims not encompassed by the preexamination search (*see* item 8 of Part I) or an updated accelerated examination support document (*see* next paragraph); or (3) present claims that are directed to a nonelected invention or an invention other than previously claimed in the application, will be treated as not fully responsive and will not be entered. *See* Part VIII (subsection Reply Not Fully responsive) for more information.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document in Part I, item 9, applicant is required to provide an updated accelerated examination

support document that encompasses the amended or new claims at the time of filing the amendment. Failure to provide such updated accelerated examination support document at the time of filing the amendment will cause the amendment to be treated as not fully responsive and not to be entered. *See* Part VIII (subsection Reply Not Fully Responsive) for more information. Any IDS filed with an updated accelerated examination support document must also comply with the requirements of 37 CFR 1.97 and 1.98.

Any reply or other papers must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the papers are not filed electronically via EFS-Web, or the reply is not fully responsive, the final disposition of the application may occur later than twelve months from the filing of the application.

Part V. Post-Allowance Processing: The mailing of a notice of allowance is the final disposition for purposes of the twelve-month goal for the program. In response to a notice of allowance, applicant must pay the issue fee within three months from the date of mailing of the Notice of Allowance and Fee(s) Due (form PTOL–85) to avoid abandonment of the application. In order for the application to be expeditiously issued as a patent, the applicant must also: (1) Pay the issue fee (and any outstanding fees due) within one month from the mailing date of the form PTOL–85; and (2) not file any post-allowance papers that are not required by the USPTO (*e.g.*, an amendment under 37 CFR 1.312 that was not requested by the USPTO).

Part VI. After-Final and Appeal Procedures: The mailing of a final Office action or the filing of a notice of appeal, whichever is earlier, is the final disposition for purposes of the twelve-month goal for the program. Prior to the mailing of a final Office action, the USPTO will conduct a conference to review the rejections set forth in the final Office action (*i.e.*, the type of conference conducted in an application on appeal when the applicant requests a pre-appeal brief conference). In order for the application to be expeditiously forwarded to the Board of Patent Appeals and Interferences (BPAI) for a decision, applicant must: (1) Promptly file the notice of appeal, appeal brief, and appeal fees; and (2) not request a pre-appeal brief conference. A pre-appeal brief conference would not be of value in an application under a final Office action because the examiner will have already conducted such a conference prior to mailing the final Office action. During the appeal process, the application will be treated in accordance with the normal appeal procedures. The USPTO will continue to treat the application special under the accelerated examination program after the decision by the BPAI.

Any after-final amendment, affidavit, or other evidence filed under 37 CFR 1.116 or 41.33 must also meet the requirements set forth in Part IV (Reply by Applicant). If applicant files a request for continued examination (RCE) under 37 CFR 1.114 with a submission and fee, the submission must meet the reply requirements under 37 CFR 1.111 (*see* 37 CFR 1.114(c)) and the requirements set forth in Part IV (Reply by Applicant). The filing of the RCE is a final disposition for purposes of the twelve-month goal for the program. The application will retain its special status and remain in the accelerated examination program. Thus, the examiner will continue to examine the application in accordance with the procedures set forth in Part III and any subsequent replies filed by applicant must meet the requirements of Part IV. The goal of the program will then be to reach a final disposition of the application within twelve months from the filing of the RCE.

Part VII. Proceedings Outside the Normal Examination Process: If an application becomes involved in proceedings outside the normal examination process (*e.g.*, a secrecy order, national security review, interference, or petitions under 37 CFR 1.181–1.183), the USPTO will treat the application special under the accelerated examination program before and after such proceedings. During those proceedings, however, the application will not be accelerated. For example, during an interference proceeding, the application will be treated in accordance with the normal interference procedures and will not be treated under the accelerated examination program. Once any one of these proceedings is completed, the USPTO will process the application expeditiously under the accelerated examination program until it reaches final disposition, but that may occur later than twelve months from the filing of the application.

Part VIII. More Information: Eligibility: Any non-reissue utility or design application filed under 35 U.S.C. 111(a) on or after the effective date of this program is eligible for the revised accelerated examination program. The following types of filings are not eligible for this revised accelerated examination program: Plant applications, reissue applications, applications entering the national stage from an international application after compliance with 35 U.S.C. 371, reexamination proceedings, RCEs under 37 CFR 1.114 (unless the application was previously granted special status under the program), and petitions to make special based on applicant's health or age or under the PPH pilot program. Rather than participating in this revised accelerated examination program, applicants for a design patent may participate in the expedited examination program by filing a request in compliance with the guidelines set forth in MPEP § 1504.30. *See* 37 CFR 1.155.

Form: Applicant should use form PTO/SB/28 for filing a petition to make special, other than those based on applicant's health or age or the PPH pilot program. The form is available on EFS-Web and on the USPTO's Internet Web site at *http://www.uspto.gov/web/forms/index.html.*

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

(A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),

(B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));

(C) An executed oath or declaration in compliance with 37 CFR 1.63;

(D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;

(E) A title and an abstract in compliance with 37 CFR 1.72;

(F) Drawings in compliance with 37 CFR 1.84;

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);

(H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);

(I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is

accurate, have been filed in the provisional application) (if applicable);

(J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);

(K) No preliminary amendments present on the filing date of the application; and

(L) No petition under 37 CFR 1.47 for a non-signing inventor.

Furthermore, if the application is a design application, the application must also comply with the requirements set forth in 37 CFR 1.151–1.154.

Applicant should also provide a suggested classification, by class and subclass, for the application on the transmittal letter, petition, or an application data sheet as set forth in 37 CFR 1.76(b)(3) so that the application can be expeditiously processed.

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (*e.g.*, a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination on filing.

Reply Not Fully Responsive: If a reply to a non-final Office action is not fully responsive, but a *bona fide* attempt to advance the application to final action, the examiner may provide one month or thirty-days, whichever is longer, for applicant to supply the omission or a fully responsive reply. No extensions of this time period under 37 CFR 1.136(a) will be permitted. Failure to timely file the omission or a fully responsive reply will result in abandonment of the application. If the reply is not a *bona fide* attempt or it is a reply to a final Office action, no additional time period will be given. The time period set forth in the previous Office action will continue to run.

Withdrawal From Accelerated Examination: There is no provision for "withdrawal" from special status under the accelerated examination program. An applicant may abandon the application that has been granted special status under the accelerated examination program in favor of a continuing application, and the continuing application will not be given special status under the accelerated examination program unless the continuing application is filed with a petition to make special under the accelerated examination program. The filing of an RCE under 37 CFR 1.114, however, will not result in an application being withdrawn from special status under the accelerated examination program.

The Twelve-Month Goal: The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. The twelve-month goal is successfully achieved when one of the following final dispositions occurs: (1) The mailing of a notice of allowance; (2) the mailing of a final Office action; (3) the filing of an RCE; or (4) the abandonment of the application. The final disposition of an application, however, may occur later than the twelve-month timeframe in certain situations (*e.g.*, an IDS citing new prior art after the mailing of a first Office action). *See* Part VII for more information on other events that may cause examination to extend beyond this twelve-month time frame. In any event, however, this twelve-month timeframe is simply a goal. Any failure to meet the twelve-month goal or other issues relating to this twelve-month goal are neither petitionable nor appealable matters.

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control number 0651–0031. The Office has submitted a Change Worksheet to OMB for review of form PTO/SB/28 Petition to Make Special Under the Accelerated Examination.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Section 708.02 of the *Manual of Patent Examining Procedure* will be revised in due course to reflect this change in practice.

Dated: June 20, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E6–10022 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designation under the Textile and Apparel Commercial Availability Provisions of the United States Caribbean Basin Trade Partnership Act (CBTPA)

June 21, 2006.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Designation.

EFFECTIVE DATE: June 26, 2006.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain 100 percent cotton, yarn-dyed, 3- or 4-thread twill weave, flannel fabrics, of combed, ring spun single yarns, of the specifications detailed below, classified in subheading 5208.43.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in products in Categories 340, 341, and 350, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The CITA hereby designates products in Categories 340, 341, and 350 that are both cut and sewn or otherwise assembled in one or more eligible CBTPA beneficiary countries from such fabrics, as eligible for quota free and duty free treatment under the textile and apparel commercial availability provisions of the CBTPA and eligible under HTSUS subheading 9820.11.27 to enter free of quota and duties, provided that all other fabrics in the referenced apparel articles are wholly formed in the United States from yarns wholly formed in the United States.

FOR FURTHER INFORMATION CONTACT: Maria K. Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of CBERA, as added by Section 211(a) of the CBTPA; Presidential Proclamation 7351 of October 2, 2000; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The commercial availability provision of the CBTPA provides for duty free and quota free treatment for apparel articles that are both cut (or knit to shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely

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

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/22/2010

Applicant	: Alan Torres Garcia	: DECISION ON REQUEST FOR
Patent Number	: 7663743	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/749,340	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **357** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ONE RIVERFRONT PLAZA
IP DEPARTMENT
NEWARK, NJ 07102

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APR 10 2008

OFFICE OF PETITIONS

In re Application of

Fredel Williamson et al.
Application No. 11/749,388
Filed: May 16, 2007
Attorney Docket No. 00030958U002

DECISION ON PETITION
TO WITHDRAW
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 13, 2007, February 27, 2008 and February 28, 2008.

The requests are **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 applicant at the address noted in the Declaration for Patent Application.

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

cc: Fredel Williamson
3104 Waldrop Place Bldg. #3
Decatur, GA 30034

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

SILLS, CUMMIS, EPSTEIN & GROSS, P.C.
ONE ROCKEFELLER PLAZA
IP DEPARTMENT – 25TH FLOOR
NEW YORK, NY 10020

COPY MAILED

MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
Fredel Williamson et al. :
Application No. 11/749,388 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. 00030958U002 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 25, 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 Philip Braginsky on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

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

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Fredel Williamson
3104 Waldrop Place
Bldg. #3
Decatur, GA 30034

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
11/749,388	05/16/2007	Fredel Williamson	00030958U002

CONFIRMATION NO. 8129

POWER OF ATTORNEY NOTICE

43309
SILLS CUMMIS & GROSS P.C.
ONE ROCKEFELLER PLAZA
IP DEPARTMENT - 25TH FLOOR
NEW YORK, NY 10020

Date Mailed: 05/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/25/2008.

- 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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/749,443	05/16/2007	Ryuzo OKADA	308729US2RD	8233

7590 03/09/2009

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

EXAMINER	
CHAUHAN, ULKA J	
ART UNIT	PAPER NUMBER
2628	
NOTIFICATION DATE	DELIVERY MODE
03/09/2009	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: 03/06/2009 BPOWELL
05/17/2007 INTEFSW 00000306 11749443
02 FC:1111 -500.00 OP

Adjustment date: 03/06/2009 BPOWELL
05/17/2007 INTEFSW 00000306 11749443
02 FC:1111 -500.00 OP

Refund Ref:
03/06/2009 0030067407

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1002

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 01/05/2010
Patent No. : 7,621,748 B2
Serial No. : 11/749,473
Inventor(s) : Bajer et al.
Issue Date : November 24, 2009
Title : **COMPUTER ENABLED TRAINING OF A USER TO VALIDATE ASSUMPTIONS**
Doc./File No. : **005222.00468**

Re: Reconsideration for 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.

Respecting the alleged error(s) in the References Cited (Other Publications), the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with Other Publication references(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied. However, further consideration will be given your request in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

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

BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 005222
10 S. WACKER DRIVE, 30TH FLOOR
CHICAGO IL 60606

ecw

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 : 4/9/2010
Patent No. : 7,621,671 B2
Serial No. : 11/749,487
Inventor(s) : Petruzzi et al.
Issued : November 4, 2008
Title : **METHOD AND APPARATUS FOR THERMAL PROTECTION IN AN INTEGRATED CIRCUIT**
Docket No. : **2337.067US1**

Re: Request for Reconsideration

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS 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.

A certificate of correction will be issued to correct the remaining error.

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

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

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA, 44TH FLOOR
NEW YORK, NY 10112-4498

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
KANESKI, et al. :
Application No. 11/749,512 : DECISION ON PETITION TO
Filed: May 16, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. 077376.0382 :

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 Dennis Bissonnette on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the named inventor Christine Kaneski at the address indicated below. There is an outstanding Non-Final Office action mailed September 30, 2008 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: CHRISTINE KANESKI
15517 QUINCE RIDGE LANE
BETHESDA, MD 20814

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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Conley Rose, P.C.
David A. Rose
P.O. Box 3267
Houston, TX 77253-3267

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of :
Edward E. Horton III :
Application No. 11/749,536 : DECISION ON PETITION
Filed: May 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 2609-00500 JMP : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 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 petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3617 for action on the merits commensurate with this decision.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 0 1 2008

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of :

O'CONNOR, Ruaidhri M. :
Application No. 11/749,537 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **2007189-0001 (QID-001)** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 26, 2008.

The request is **APPROVED**.

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

The request was signed by John Lanza on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 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: **RUAIDHRI M. O'CONNOR**
QUANTUMID TECHNOLOGIES
15 AUDREY STREET, #C2
CAMBRIDGE MA 02139

cc: **MILIND TAVSHIKAR**
QUANTUMID, ONE BROADWAY
CAMBRIDGE MA 02142

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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AT & T LEGAL DEPARTMENT – BHGL
ATTN: PATENT DOCKETING ROOM 2A – 207
ONE AT& T WAY
BEDMINSTER NJ 07921

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NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Bull et al.	:	TO WITHDRAW
Application No. 11/749,555	:	FROM RECORD
Filed: May 16, 2007	:	
Attorney Docket No. 08285-00925 (A00480-C4)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Scott W. Brim on behalf of all attorneys of record associated with Customer Number 83808. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

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

Currently, there is no outstanding Office action that requires a reply.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Scott W. Brim
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 1 4 2008

OFFICE OF PETITIONS

MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690

In re Application of :
Arnold, et al. :
Application No. 11/749,566 : ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. P-18300US (07062086)

This is a decision on the petition under 37 CFR 1.182, filed December 4, 2007, to change the order of the inventors cited on this application in USPTO records.

The petition is **granted.**

The order of the inventors is now as follows:

1. Debbie Arnold
2. Doug Deibert
3. Charles Quach
4. Christine Ring
5. Roberta Lee

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 2800, GAU 2876 for further processing including treatment of the petition under 37 CFR 1.48 filed December 4, 2007.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/749,566	05/16/2007	2876	1130	P-18300US (07062086)	17	2

CONFIRMATION NO. 8461

CORRECTED FILING RECEIPT

26565
MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690

OC000000028837895

Date Mailed: 03/13/2008

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

Applicant(s)

Deborah Arnold, Loomis, CA;
Doug Deibert, Alameda, CA;
Charles Quach, Pacifica, CA;
Christine Ring, San Carlos, CA;
Roberta Lee, Redwood City, CA;

Assignment For Published Patent Application

Visa International Service Association, Foster City, CA

Power of Attorney: The patent practitioners associated with Customer Number 26565

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/747,333 05/16/2006

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/749,566**

Projected Publication Date: 05/22/2008

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND SYSTEMS FOR PROVIDING PERSONALIZED INFORMATION

Preliminary Class

235

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/749,571	05/16/2007	Koji Ishioka	112857-1089	8469

7590 09/15/2009

K&L Gates LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER	
BUTCHER, BRIAN M	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
09/15/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/14/2009 0030074356

Credit Card Refund Total: $250.00

VISA....: XXXXXXXXXXXX7406

Adjustment date: 09/14/2009 NFARMER
05/17/2007 INTEFSW 00001853 11749871
02 FC:2111 -250.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER CO 80264

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OFFICE OF PETITIONS

In re Application of	:	
Peter L. Bird	:	DECISION ON PETITION
Application No. 11/749,612	:	TO WITHDRAW
Filed: May 16, 2007	:	FROM RECORD
Attorney Docket No. 540-004-USP	:	

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, 2009, 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 Hensley Kim & Holzer, LLC 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 Hensley Kim & Holzer, LLC 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 no outstanding Office action 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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SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Clark E. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7579987	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/749,627	: OF WYETH
Filed	: 05/16/2007	:
		:

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
BALK, IGOR et al.
Serial No.: 11/749,631
Filed: May 16, 2007

Title: **SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH USER SELECTABLE REPLY FORMAT**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

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

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on May 23, 2007 is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reason, the petition is denied. After the application is considered complete by the Office of Initial Patent Examination (OIPE), it will be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
BALK, IGOR et al.
Serial No.: 11/749,642
Filed: May 16, 2007

Title: **SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH COMBINED COMMUNICATION LOG**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

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

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on May 23, 2007 is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reason, the petition is denied. After the application is considered complete by the Office of Initial Patent Examination (OIPE), it will be taken up by the examiner for action in its regular turn.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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OFFICE OF PETITIONS

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
Balk et al.
Application No. 11/749,642
Filed: May 16, 2007
For: SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH COMBINED COMMUNICATION LOG

ON PETITION

This application is before this office in view of a petition filed July 9, 2007, self-styled as requesting relief under 37 CFR 1.181, 1.182, and 1.183, which is being treated by this Office as a petition under 37 CFR 1.182 only, to refer the above-identified application to the attention of the Office of the Director, Technology Center 2600, for a review of the adverse decision of the Quality Assurance Examiner of June 14, 2007.

The petition is **dismissed** on the merits under 37 CFR 1.182 and is favorably treated only to tyhe extent the extent that the Technology Center Director is authorized to render a decision on the petition under 37 CFR 1.181.

Petitioner complains that the adverse decision on his petition for accelerated examination was improperly grounded on the Notice to File Corrected Application mailed May 23, 2007, by the Office of Initial Patent Examination, which merely required better lines in Figures 4, and 6, and that as applications are routinely published and even issued with drawings of similar nature, the examiner's accelerated examination would not have been adversely impacted by the drawings as filed.

A review of a TC employee's action or inaction in a given application, in the first instance, is by way of the Group Director under the provisions of 37 CFR 1.181. See MPEP 1002.02(c), ¶ 3. Should an applicant, in turn, seek review of an adverse decision of the Group Director, that review will come before this office under the provisions of 37 CFR 1.181. See MPEP 1002.02(b), ¶ 15.

Since 37 CFR 1.181 entirely provides for the question then 37 CFR 1.182 by its express terms does not provide for the question, and as such, it is facially unnecessary to consider the petition under 37 CFR 1.182. 37 CFR 1.182 applies only when no other rule speaks to the question and is not a mechanism for avoiding the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As noted in 71 *F.R.* 36323 at 36327 (June 26, 2006) which announced the current Accelerated Examination Petitions Practice:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, **notice to file corrected application papers**, notice of omitted items, or notice of informal application)(emphasis added).

This requirement is repeated in MPEP 702.08(a)subsection VII(C), last paragraph. As to the petition under 37 CFR 1.183, since it is facially not necessary to consider waiver of any requirement of the rules of practice for the Group Director to treat the petition on its merits under 37 CFR 1.181, the question of waiver need not be considered. Thus, there is no compelling reason to further consider the petition under either 37 CFR 1.182 or 1.183 by this office at this time, and the established requirements of the current accelerated examination program remain in full force and effect. See 71 *F.R.* 36323 at 36327.

This application is being referred to the office of the Group Director for Technology Center 2600, for treatment of the instant petition only under the provisions of 37 CFR 1.181(a).

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

Applicant: Igor Balk et al.
Application No. 11/749,642
Filed: May 16, 2007
For: **SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH COMBINED COMMUNICATION LOG**

Decision On Petition to Make Special under 37 C.F.R. § 1.102 (d) and M.P.E.P § 708.02(a)

This is a decision in response to the petition decision by Office of Petitions mailed August 2, 2007, which was in response to the "Request for Reconsideration on the Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102(d) & M.P.E.P. 708.02" filed on July 9, 2007. The petition under 37 C.F.R. § 1.181 to review the decision mailed June 14, 2007, denying accelerated examination status for the instant application is being treated by the Director of TC 2600 as directed by the Office of Petitions in their decision mailed August 2, 2007.

The petition under 37 C.F.R. § 1.181 to reconsider the denial of accelerated examination status for application No. 11/749,642 and to grant such status under 37 C.F.R. § 1.102 is **DENIED**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) on May 16, 2007, and was accompanied by a petition under 37 C.F.R. § 1.102(d) to make the application special under the accelerated examination program. See 71 Fed. Reg. 36323.

On June 14, 2007, the United States Patent and Trademark Office (USPTO) issued a decision denying the petition to make the application special. The decision outlined the requirements for accelerated examination pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323), and held that the application, as filed, was not in condition for examination as required under the accelerated examination program. The decision of June 14, 2007, indicates that the application, as filed, was not in condition for examination because the application, at the time of filing, was not complete under 37 CFR § 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on May 23, 2007 was provided as evidence that the application was not complete and in condition for examination at the time of filing. Accordingly, the decision concluded that the application, as filed, was not eligible for the accelerated examination program and denied the granting of special status.

On July 9, 2007, the instant petition was filed under 37 C.F.R. § 1.181, 1.182, and 1.183 to request reconsideration of the decision of June 14, 2007, denying of the petition to make special. On August 2, 2007 the office of Petitions dismissed the petitions under 37 CFR § 1.182 and 1.183 and deferred the petition under 37 CFR § 1.181 to the Director of TC 2600.

Applicable Regulations and Notice Sections

"Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination", 71 Fed. Reg. 36323 (June 26, 2006)

The relevant portions of the Accelerated Examination Notice are as follows:

> *Part I. Requirements for Petitions to Make Special under Accelerated Examination:* A new application may be granted accelerated examination status under the following conditions:
>
> ...
>
> (4)At the time of filing, the application must be complete under 37 CFR § 1.51 and in condition for examination.

...

> *Part VIII: More Information:*
> *Eligibility:*

...

> *Conditions for Examination:* The application must be in condition for examination at the time of filing. This means the application must include the following:

...

> (F) Drawings in compliance with 37 CFR § 1.84...
> .....
> ***The opportunity to perfect a petition (part II) does not apply to applications that are not in condition for examination.*** (emphasis added)

Decision

As indicated above, to be eligible for the accelerated examination program, the application must be in condition for examination on filing. One of the conditions being drawings must be in compliance with 37 CFR § 1.84. 37 CFR § 1.84 (l) requires that all drawings must be made by a

process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

37 CFR § 1.84 (p)(1) requires that reference characters (numerals are preferred), sheet numbers, and view numbers must be plain and legible, and must not be used in association with brackets or inverted commas, or enclosed within outlines, e.g., encircled. They must be oriented in the same direction as the view so as to avoid having to rotate the sheet. Reference characters should be arranged to follow the profile of the object depicted.

Petitioner indicates that "a Notice to File Corrected Application Papers was issued in error, and the issuance of this notice caused the denial of the Petition to Make Special, which was therefore in error. It is also submitted that, notwithstanding the issuance of the Notice to File Corrected Application Papers, denial of the Petition to Make Special was in error." The petitioner goes on to request that the denial be reversed.

A review of the application record reveals that the application was filed with six original figures on six sheets of drawings. A Notice To File Corrected Application Papers was mailed on May 23, 2007, which indicated the application is informal and applicant is given two months to correct informalities in order to avoid abandonment. The informality identified was for:

> Replacement drawings in compliance with 37 CFR§ 1.84 and 37 CFR § 1.121(d) are required. The drawings submitted are not acceptable because:
>
> The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR § 1.84(I) and (p)(1)); See Figure(s) 4, 6.

Accordingly, the failure to provide drawings in compliance with 37 CFR § 1.84 on filing renders the instant application not eligible for the accelerated examination status. The "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323, 36327) specifically lists such a defect as one that does not afford an opportunity for perfection of the petition.

While the deficiencies in the application as filed have been addressed by the filing of a Response To Notice To File Corrected Application Papers on July 23, 2007, the filing of the Response To Notice To File Corrected Application Papers does not save the application from being ineligible for inclusion in the accelerated examination program.

Accordingly, the decision denying special status by the Technology Center has been reviewed and found proper.

CONCLUSION

For the above-stated reasons, the petition under 37 C.F.R. § 1.181 to reconsider and grant special status to application No. 11/749,642 is **DENIED**. This application is being forwarded to the appropriate Art Unit for docketing as a new application in its regular turn.

Andrew Faile

Andrew I. Faile, Director
Technology Center 2600
Communications

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OFFICE OF PETITIONS

WINSTON & STRAWN LLP
PATENT DEPARTMENT
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WASHINGTON DC 20006

In re Application of :
Balk, et al. : DECISION ON PETITION
Application No. 11/749,642 :
Filed: May 16, 2007 :
Attorney Docket No. 85453-4199 :

This is a decision on the "PETITION UNDER 37 CFR 1.182 TO REQUEST WITHDRAWAL OF THE RECORDED TERMINAL DISCLAIMER", filed May 18, 2009.

The petition under 37 CFR 1.182 is **GRANTED**.

The matter is being forwarded to Group Art Unit 2614. The examiner is directed to withdraw the terminal disclaimer over US Application No. 12/247,934.

Receipt of the $400 petition fee is acknowledged.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Clark E. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7583225	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/749,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2007	: 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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
BALK, IGOR et al.
Serial No.: 11/749,657
Filed: May 16, 2007

Title: **SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH CONDITIONAL COMMUNICATION HANDLING**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

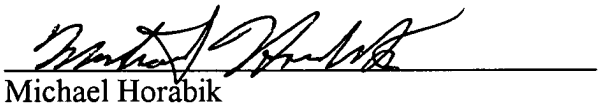
REGULATION AND PRACTICE

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

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

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on May 23, 2007 is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reason, the petition is denied. After the application is considered complete by the Office of Initial Patent Examination (OIPE), it will be taken up by the examiner for action in its regular turn.



Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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OFFICE OF PETITIONS

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
Balk et al.
Application No. 11/749,657 : ON PETITION
Filed: May 16, 2007
For: SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH CONDITIONAL COMMUNICATION HANDLING

This application is before this office in view of a petition filed July 9, 2007, self-styled as requesting relief under 37 CFR 1.181, 1.182, and 1.183, which is being treated by this Office as a petition under 37 CFR 1.182 only, to refer the above-identified application to the attention of the Office of the Director, Technology Center 2600, for a review of the adverse decision of the Quality Assurance Examiner of June 14, 2007.

The petition is **dismissed** on the merits under 37 CFR 1.182 and is favorably treated only to tyhe extent the extent that the Technology Center Director is authorized to render a decision on the petition under 37 CFR 1.181.

Petitioner complains that the adverse decision on his petition for accelerated examination was improperly grounded on the Notice to File Corrected Application mailed May 23, 2007, by the Office of Initial Patent Examination, which merely required better lines in Figures 4, and 6, and that as applications are routinely published and even issued with drawings of similar nature, the examiner's accelerated examination would not have been adversely impacted by the drawings as filed.

A review of a TC employee's action or inaction in a given application, in the first instance, is by way of the Group Director under the provisions of 37 CFR 1.181. See MPEP 1002.02(c), ¶ 3. Should an applicant, in turn, seek review of an adverse decision of the Group Director, that review will come before this office under the provisions of 37 CFR 1.181. See MPEP 1002.02(b), ¶ 15.

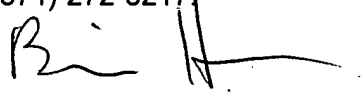
Since 37 CFR 1.181 entirely provides for the question then 37 CFR 1.182 by its express terms does not provide for the question, and as such, it is facially unnecessary to consider the petition under 37 CFR 1.182. 37 CFR 1.182 applies only when no other rule speaks to the question and is not a mechanism for avoiding the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As noted in 71 *F.R.* 36323 at 36327 (June 26, 2006) which announced the current Accelerated Examination Petitions Practice:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, **notice to file corrected application papers**, notice of omitted items, or notice of informal application)(emphasis added).

This requirement is repeated in MPEP 702.08(a)subsection VII(C), last paragraph. As to the petition under 37 CFR 1.183, since it is facially not necessary to consider waiver of any requirement of the rules of practice for the Group Director to treat the petition on its merits under 37 CFR 1.181, the question of waiver need not be considered. Thus, there is no compelling reason to further consider the petition under either 37 CFR 1.182 or 1.183 by this office at this time, and the established requirements of the current accelerated examination program remain in full force and effect. See 71 *F.R.* 36323 at 36327.

This application is being referred to the office of the Group Director for Technology Center 2600, for treatment of the instant petition only under the provisions of 37 CFR 1.181(a).

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.



Brian Hearn
Petitions Examiner
Office of Petitions

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PATENT DEPARTMENT
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Applicant: Igor Balk et al.
Application No. 11/749,657
Filed: May 16, 2007
For: **SYSTEMS AND METHODS FOR PROVIDING UNIFIED COLLABORATION SYSTEMS WITH CONDITIONAL COMMUNICATION HANDLING**

Decision On Petition to Make Special under 37 C.F.R. § 1.102 (d) and M.P.E.P § 708.02(a)

This is a decision in response to the petition decision by Office of Petitions mailed August 2, 2007, which was in response to the "Request for Reconsideration on the Decision on Petition to Make Special for New Application Under 37 C.F.R. § 1.102(d) & M.P.E.P. 708.02" filed on July 9, 2007. The petition under 37 C.F.R. § 1.181 to review the decision mailed June 14, 2007, denying accelerated examination status for the instant application is being treated by the Director of TC 2600 as directed by the Office of Petitions in their decision mailed August 2, 2007.

The petition under 37 C.F.R. § 1.181 to reconsider the denial of accelerated examination status for application No. 11/749,657 and to grant such status under 37 C.F.R. § 1.102 is **DENIED**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) on May 16, 2007, and was accompanied by a petition under 37 C.F.R. § 1.102(d) to make the application special under the accelerated examination program. See 71 Fed. Reg. 36323.

On June 14, 2007, the United States Patent and Trademark Office (USPTO) issued a decision denying the petition to make the application special. The decision outlined the requirements for accelerated examination pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323), and held that the application, as filed, was not in condition for examination as required under the accelerated examination program. The decision of June 14, 2007, indicates that the application, as filed, was not in condition for examination because the application, at the time of filing, was not complete under 37 CFR § 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on May 23, 2007 was provided as evidence that the application was not complete and in condition for examination at the time of filing.

Accordingly, the decision concluded that the application, as filed, was not eligible for the accelerated examination program and denied the granting of special status.

On July 9, 2007, the instant petition was filed under 37 C.F.R. § 1.181, 1.182, and 1.183 to request reconsideration of the decision of June 14, 2007, denying of the petition to make special. On August 2, 2007 the office of Petitions dismissed the petitions under 37 CFR § 1.182 and 1.183 and deferred the petition under 37 CFR § 1.181 to the Director of TC 2600.

Applicable Regulations and Notice Sections

"Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination", 71 Fed. Reg. 36323 (June 26, 2006)

The relevant portions of the Accelerated Examination Notice are as follows:

> *Part I. Requirements for Petitions to Make Special under Accelerated Examination:* A new application may be granted accelerated examination status under the following conditions:
>
> ...
>
> (4)At the time of filing, the application must be complete under 37 § CFR 1.51 and in condition for examination.

...

> *Part VIII: More Information:*
> *Eligibility:*

...

> *Conditions for Examination:* The application must be in condition for examination at the time of filing. This means the application must include the following:

...

> (F) Drawings in compliance with 37 CFR § 1.84...
>
> .....
>
> ***The opportunity to perfect a petition (part II) does not apply to applications that are not in condition for examination.*** (Emphasis added)

Decision

As indicated above, to be eligible for the accelerated examination program, the application must be in condition for examination on filing. One of the conditions being drawings must be in compliance with 37 CFR § 1.84. 37 CFR § 1.84 (l) requires that all drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

37 CFR § 1.84 (p)(1) requires that reference characters (numerals are preferred), sheet numbers, and view numbers must be plain and legible, and must not be used in association with brackets or inverted commas, or enclosed within outlines, e.g., encircled. They must be oriented in the same direction as the view so as to avoid having to rotate the sheet. Reference characters should be arranged to follow the profile of the object depicted.

Petitioner indicates that "a Notice to File Corrected Application Papers was issued in error, and the issuance of this notice caused the denial of the Petition to Make Special, which was therefore in error. It is also submitted that, notwithstanding the issuance of the Notice to File Corrected Application Papers, denial of the Petition to Make Special was in error." The petitioner goes on to request that the denial be reversed.

A review of the application record reveals that the application was filed with six original figures on six sheets of drawings. A Notice To File Corrected Application Papers was mailed on May 23, 2007, which indicated the application is informal and applicant is given two months to correct informalities in order to avoid abandonment. The informality identified was for:

> Replacement drawings in compliance with 37 CFR § 1.84 and 37 CFR § 1.121(d) are required. The drawings submitted are not acceptable because:
>
> The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR § 1.84(I) and (p)(1)); See Figure(s) 4, 6.

Accordingly, the failure to provide drawings in compliance with 37 CFR § 1.84 on filing renders the instant application not eligible for the accelerated examination status. The "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323, 36327) specifically lists such a defect as one that does not afford an opportunity for perfection of the petition.

While the deficiencies in the application as filed have been addressed by the filing of a Response To Notice To File Corrected Application Papers on July 23, 2007, the filing of the Response To Notice To File Corrected Application Papers does not save the application from being ineligible for inclusion in the accelerated examination program.

Accordingly, the decision denying special status by the Technology Center has been reviewed and found proper.

CONCLUSION

For the above-stated reasons, the petition under 37 C.F.R. § 1.181 to reconsider and grant special status to application No. 11/749,657 is **DENIED**. This application is being forwarded to the appropriate Art Unit for docketing as a new application in its regular turn.

Andrew I. Faile, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

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OFFICE OF PETITIONS

In re Patent No.: 7,573,242
Issue Date: August 11, 2009
Application No. 11/749,676
Filed: May 16, 2007
Attorney Docket No. 4214-00000

DECISION ON PETITION
UNDER 37 CFR 1.55(c) AND REQUEST
FOR CERTIFICATE OF CORRECTION

This is a decision in response to the petition filed October 9, 2009, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign United Kingdom Application No. 0309942.1, filed April 30, 2003, by way of a certificate of correction.

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 nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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.

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

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/749,676	05/16/2007	2838	1680	4214-00000	21	4

CONFIRMATION NO. 8644

CORRECTED FILING RECEIPT

30652
CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Date Mailed: 12/18/2009

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)

Ryan M. Bayne, Waterloo, CANADA;
Skarine Alexei, Waterloo, CANADA;
Steve Green, Waterloo, CANADA;

Assignment For Published Patent Application

RESEARCH IN MOTION LIMITED, Waterloo, CANADA

Power of Attorney:

Albert Metrailer--27145
Kristin Harkins--37859
Rodney Carroll--39624
Michael Piper--39800
Joseph Brown Jr--45438
Shannon Bates--47412
Grant Rodolph--50487

Domestic Priority data as claimed by applicant

This application is a CON of 10/834,887 04/30/2004 PAT 7,479,762

Foreign Applications

UNITED KINGDOM 0309942.1 04/30/2003

If Required, Foreign Filing License Granted: 06/05/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/749,676**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CHARGER SYSTEM AND METHOD

Preliminary Class

320

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

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OFFICE OF PETITIONS

In re Application of :

HAULICK, Tim et al. :
Application No. 11/749,678 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **11336-1594 (P05019US)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUCSON AZ 85744

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AUG 2 1 2008

In re Application of :
Roy D. Cideciyan et al :
Application No. 11/749,711 : DECISION GRANTING PETITION
Filed: May 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TUC920070095US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

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

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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.*

This application is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
LAW OFFICE OF DAN SHIFRIN
14081 WEST 59TH AVENUE
ARVADA, COLORADO 80004

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

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DEC 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Webster and Ramamrutham :
Application No. 11/749,713 :
Filed: May 16, 2007 :
Attorney Docket No. 037822-020300 :
For: System and Method for Monitoring :
a User's Online Activity :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 6, 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) listed above. The application number listed on the declaration is 11/149,713 rather than 11/749,713. Since the declaration is not directed to the instant application, the declaration cannot be accepted.

Any request for reconsideration should include a declaration listing the correct application number signed by Inventor Webster.

A request for reconsideration may be filed electronically. If not filed electronically, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of :
Webster and Ramamrutham :
Application No. 11/749,713 :
Filed: May 16, 2007 :
Attorney Docket No. 037822-020300 :
For: System and Method for Monitoring :
a User's Online Activity :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed January 23, 2008.

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.

A fee is not required for a renewed petition under 37 CFR 1.47. Therefore, the $200 charged to Deposit Account No. 50-2638 on January 23, 2008, has been credited back to the deposit account.

Technology Center Art Unit 2154 will be informed the petition has been granted and that the January 23, 2008 declaration is acceptable without the signature of the non-signing inventor. Thereafter, the application will be examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MAR 24 2010

OFFICE OF PETITIONS

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

In re Application of :
WEBSTER, Jeff et al. :
Application No. 11/749,713 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **037822-020300** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 08, 2010.

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.

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).

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ICROSSING, INC.**
14822 NORTH 73RD STREET
SUITE 113
SCOTTSDALE, AZ 85260

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAY 10 2010

OFFICE OF PETITIONS

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

In re Application of :
WEBSTER, Jeff et al. :
Application No. 11/749,713 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **037822-020300** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 05, 2010.

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.

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).

A copy of the Office assignment records is not a statement under 37 3.73(b), see attachment. A review of the Office records indicates the assignee information provided on the request for withdrawal is not the most current address information for the assignee of record.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Jeff WEBSTER et al. :
Application No. 11/749,713 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. 037822-020300 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 03, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Cynthia A. Dixon on behalf of all attorneys of record who are associated with customer No. 33717. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jeff Webster at the address indicated below.

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: **JEFF WEBSTER**
2408 E. CACTUS ROAD
PHOENIX, AZ 85032

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Clifford, et al. :
Filed: May 16, 2007 : ON PETITION
Application No. 11/749,725 :
Atty. Dkt. No.: 021120-000310US :

This decision is in response to the petition, filed August 7, 2007, to accord the above-identified application a filing date of May 16, 2007 with Figure 12 as part of the original disclosure of application.

The petition is hereby GRANTED.

The above-identified application was filed May 16, 2007. The Notice mailed June 7, 2007 indicated, *inter alia*, that Figure 12 appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (I) establish prior receipt in the PTO of Figure 2 of the drawings; (II) submit the omitted figure and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (III) take no action thereby constructively accepting the application as deposited in the USPTO.

Petitioners contend that the application as filed contained no omissions and that the Figure 12 was mislabeled.

Since, according to petitioners' contention, no figures were actually missing on May 16, 2007, the application will be processed using the drawings filed on May 16, 2007.

However, the Notice was correct in advising applicants that Figure 12 appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn. Further, the petition fee will not be refunded since the petition was not necessary to correct any PTO error.

The amendment submitted herewith will be examined in due course.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of May 16, 2007, using the drawing sheets filed on that date.

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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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Clifford, et al. :
Filed: May 16, 2007 : ON PETITION
Application No. 11/749,726 :
Atty. Dkt. No.: 021120-000320US :

This decision is in response to the petition, filed August 7, 2007, to accord the above-identified application a filing date of May 16, 2007 with Figure 12 as part of the original disclosure of application.

The petition is hereby GRANTED.

The above-identified application was filed May 16, 2007. The Notice mailed June 7, 2007 indicated, *inter alia*, that Figure 12 appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (I) establish prior receipt in the PTO of Figure 2 of the drawings; (II) submit the omitted figure and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (III) take no action thereby constructively accepting the application as deposited in the USPTO.

Petitioners contend that the application as filed contained no omissions and that the Figure 12 was mislabeled.

Since, according to petitioners' contention, no figures were actually missing on May 16, 2007, the application will be processed using the drawings filed on May 16, 2007.

However, the Notice was correct in advising applicants that Figure 12 appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn. Further, the petition fee will not be refunded since the petition was not necessary to correct any PTO error.

The amendment submitted herewith will be examined in due course.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of May 16, 2007, using the drawing sheets filed on that date.

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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OFFICE OF PETITIONS

In re Application of :
David Platt, et al. :
Application No. 11/749,728 : ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. 089918-023001 :

This is a decision in response to the petition, filed April 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 7, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on January 13, 2009. In response, on April 10, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the reply received April 10, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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In re Application of :
Anton Clifford :
Application No. 11/749,729 : DECISION ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. 021120-000330US:

This is a decision on the "PETITION FOR DATE OF DEPOSIT", filed August 7, 2007, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 be withdrawn.

The petition is **DISMISSED**.

The application was filed on May 16, 2007. However, on June 7, 2007, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice informed applicant that the application had been accorded a filing date. However, the oath or declaration and statutory basic filing fee were missing. In addition, Figure 12 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that Figure 12 was not missing on May 16, 2007. Instead, the drawing was mislabled as Figure 13.

It is obvious from the petition that no drawings were actually missing on May 16, 2007. Rather, the drawing sheet containing

Figure 12 was simply mislabeled as a result of applicant's filing error. However, the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 was correct in stating that Figure 12 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will not be refunded.

Applicant has not submitted the $75 statutory basic filing fee as required by the June 7, 2007 Notice. However, as Applicant did include an authorization to charge any additional fees to his deposit account, the amount of $75 has been charged to Deposit Account No. 20-1430.

It is noted that Applicant does not appear to have submitted an oath or declaration as required by the June 7, 2007 Notice. The two month extendable time period for filing an oath or declaration continues to run from the date of the Notice.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of May 16, 2007, using the 32 sheets of drawings filed on that date and the corrected drawing filed on August 7, 2007 to correct the error in labeling of Figure 12.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA GA 30339

In re Application of	:
Bela Venkataraman et al	: DECISION ON PETITION TO MAKE
Serial No.: 11/749,732	: SPECIAL FOR NEW APPLICATION
Filed: May 16, 2007	: UNDER 37 C.F.R. § 1.102 & M.P.E.P.
Attorney Docket No.: 27360-RA3	: § 708.02

This is a decision on the petition filed May 16, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 an agreement 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 CFR 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 CFR 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.

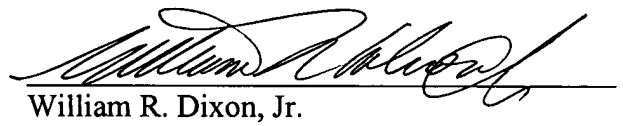
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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In re Application of :
Clifford, et al. :
Application No. 11/749,733 : DECISION ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. 021120-000340US:

This is a decision on the "PETITION FOR DATE OF DEPOSIT", filed August 7, 2007, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 be withdrawn.

The petition is **DISMISSED**.

The application was filed on May 16, 2007. However, on June 7, 2007, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice informed applicant that the application had been accorded a filing date. However, the oath or declaration and statutory basic filing fee were missing. In addition, Figure 12 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that Figure 12 was not missing on May 16, 2007. Instead, the drawing was mislabled as Figure 13.

It is obvious from the petition that no drawings were actually missing on May 16, 2007. Rather, the drawing sheet containing

Figure 12 was simply mislabeled as a result of applicant's filing error. However, the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 was correct in stating that Figure 12 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will not be refunded.

Applicant has not submitted the $75 statutory basic filing fee as required by the June 7, 2007 Notice. However, as Applicant did include an authorization to charge any additional fees to his deposit account, the amount of $75 has been charged to Deposit Account No. 20-1430.

It is noted that Applicant does not appear to have submitted an oath or declaration as required by the June 7, 2007 Notice. The two month extendable time period for filing an oath or declaration continues to run from the date of the Notice.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of May 16, 2007, using the 32 sheets of drawings filed on that date and the corrected drawing filed on August 7, 2007 to correct the error in labeling of Figure 12.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Erik James Shahoian :
Application No. 11/749,734 : DECISION ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. 021120-000350US:

This is a decision on the "PETITION FOR DATE OF DEPOSIT", filed August 7, 2007, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 be withdrawn.

The petition is **DISMISSED**.

The application was filed on May 16, 2007. However, on June 7, 2007, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice informed applicant that the application had been accorded a filing date. However, the oath or declaration and statutory basic filing fee were missing. In addition, Figure 12 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that Figure 12 was not missing on May 16, 2007. Instead, the drawing was mislabled as Figure 13.

It is obvious from the petition that no drawings were actually missing on May 16, 2007. Rather, the drawing sheet containing

Figure 12 was simply mislabeled as a result of applicant's filing error. However, the "Notice to File Missing Parts of Nonprovisional Application" mailed June 7, 2007 was correct in stating that Figure 12 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will not be refunded.

Applicant has not submitted the $75 statutory basic filing fee as required by the June 7, 2007 Notice. However, as Applicant did include an authorization to charge any additional fees to his deposit account, the amount of $75 has been charged to Deposit Account No. 20-1430.

It is noted that Applicant does not appear to have submitted an oath or declaration as required by the June 7, 2007 Notice. The two month extendable time period for filing an oath or declaration continues to run from the date of the Notice.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of May 16, 2007, using the 32 sheets of drawings filed on that date and the corrected drawing filed on August 7, 2007 to correct the error in labeling of Figure 12.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Raymond Ho
Genesis Group
315 Moorefield Road SW
Vienna, VA 22180

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OFFICE OF PETITIONS

In re Application of :
James W. Malecha e al. :
Application No. 11/749,742 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. K0088-201US : FROM RECORD
:

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 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).

Raymond J. Ho 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

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

:

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of :
Garry Shipton et al :
Application No. 11/749,750 : ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. PEA37US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 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 Filed Corrected Application Papers (Notice) mailed June 12, 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 13, 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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OFFICE OF PETITIONS

In re Application of :
Tang et al. :
Application No. 11/749,751 : ON PETITION
Filed: May 17, 2007 :
Attorney Docket No.: 089210-000200US :

This is a decision on the petition filed August 3, 2007 requesting in effect that the Notice of Omitted Item(s) contained in the Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed June 4, 2007 be withdrawn.

The application was filed on May 17, 2007. However, on June 4, 2007, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of May 17, 2007 and advising applicant that figures 3 and 5 described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends no drawings were omitted upon filing on May 17, 2007. Petitioner states that Figure 3 represents figures 3a, 3b, and 3c. Petitioner further states that Figure 5 represents figures 5a, 5b, 5c, 5d, and 5e. Thus all figures were present on May 17, 2007.

The petition is Dismissed.

Applicant is not seeking to submit any additional drawings. However, the office was correct in stating that figures 3 and 5 appeared to have been omitted.

The "Notice" mailed June 4, 2007, was correct in advising applicant that figures 3 and 5 appeared to have been omitted, since no drawings labeled figures 3 and 5 were filed on May 17, 2007. Therefore, the "Notice" was properly mailed and will not be

withdrawn.

The petition is dismissed. The petition fee will not be refunded as the petition was necessitated by the condition of the application on filing.

If necessary, an amendment of the specification is required to correct the references to the drawing figures to correspond both in the brief and detailed descriptions of the drawings. Such amendment should be submitted as a preliminary amendment prior to the first Office action to avoid delays in the prosecution of the application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **May 17, 2007** using the 6 sheets of drawings filed on that date.

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

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FARGO, ND 58103

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of :
TIDD, Roger M. :
Application No. 11/749,772 : DECISION ON PETITION TO
Filed: May 17, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. TIDD-001 :

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

The request is APPROVED.

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

The request was signed by Michael S. Neustel, the sole attorney of record. Michael S. Neustel has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Roger M. Tidd at the address indicated below.

There is an outstanding Office action mailed May 12, 2008 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ROGER M. TIDD
1142 NORTH ELM STREET
FARGO, ND 58102

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

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
DEVLIN et al. :
Application No. 11/749,791 : ON PETITION
Deposited: May 17, 2007 :
Attorney Docket No. :
USAV2003/0190 US CNT :

This is in response to the "REPLY TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION - PETITION UNDER 37 C.F.R. 1.57(a)" filed first on August 13, 2007 and again on November 14, 2007, requesting that the above-referenced application be accorded a filing date of May 17, 2007.

The petition is **DISMISSED**.

Application papers in the above-identified application were deposited on May 17, 2007. On June 15, 2007, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the oath or declaration was missing and that the application papers had not been accorded a filing date because the application was deposited without drawings. In response, applicants timely filed this petition with a declaration and drawings. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the drawings were filed in international application PCT/US05/042045, from which the application as filed contained a prior benefit claim.

However, the drawings submitted with this petition were not in the form of an amendment under 37 CFR 1.121(d). Also, a copy of the prior-filed application was not supplied with the petition and the petition does not identify where the inadvertently omitted drawings can be found in the prior-filed application, as required by 37 CFR 1.57(a)(1)(i and iii). Accordingly, the requested filing date will not be given to this application until these requirements are satisfied.

Telephone inquiries concerning this matter may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
DEVLIN et al.	:	
Application No. 11/749,791	:	ON PETITION
Deposited: May 17, 2007	:	
Attorney Docket No.	:	
USAV2003/0190 US CNT	:	

This is a decision on the renewed petition under 37 CFR 1.57(a), filed November 11, 2008. The original petition was filed first on August 13, 2007 and again on November 14, 2007 in response to the "REPLY TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION - PETITION UNDER 37 C.F.R. 1.57(a)," and requested that the above-referenced application be accorded a filing date of May 17, 2007.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on May 17, 2007. On June 15, 2007, the Office of Patent Application Processing (OPAP) mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the oath or declaration was missing and that the application papers had not been accorded a filing date because the application was deposited without drawings. In response, applicants timely filed a petition under 37 CFR 1.57(a) with a declaration and drawings. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the drawings were filed in international application PCT/US05/042045, from which the application as filed contained a prior benefit claim.

The requirements of 37 CFR 1.57(a) have been satisfied. Accordingly, the filing date given to this application will be changed to May 17, 2007.

This application file is being referred to OPAP for **correction of the filing date to May 17, 2007 and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to Christopher Bottorff at (571) 272-6692. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/749,792	05/17/2007	Takehito Washizawa	9319D-002157	8896

27572 7590 11/13/2009

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

EXAMINER	
VU, PHU	

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
11/13/2009	PAPER

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

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

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

In re application	:	
Washizawa, Takehito	:	NOTICE OF WITHDRAWAL
Application No.: 11/749792	:	FROM ISSUE
Filed: 05/17/2007	:	UNDER 37 CFR 1.313
Attorney Docket No: 9319D-002157	:	
For: ELECTROOPTIC DEVICE, METHOD FOR MANUFACTURING THE SAME, AND ELECTRONIC DEVICE	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 21, 2009 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner David Nelms at (571) 272-1787.

The above identified application is being forwared to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard Seidel, Director
Technology Center 2800

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OCT 19 2007

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of Weber et al. :
Application No. 11/749,808 : Decision on Petition
Filing Date: May 17, 2007 :
Attorney Docket No. 14069*100 :

This is a decision on the petition filed June 28, 2007, to accord the above-identified application a filing date of May 17, 2007, and to enter the drawing page filed June 28, 2007, as part of the original disclosure.

The petition is **granted** to the extent the application will be accorded a filing date of June 28, 2007. However, the drawing page will not be entered as part of the original disclosure.

Facts:

The application was filed on May 17, 2007.

The specification filed on May 17, 2007, described drawings Figure 1. However, the file failed to indicate any drawings were filed on May 17, 2007.

On June 7, 2007, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

The claims include claims directed to a process.

Discussion:

The application is entitled to a filing date of May 17, 2007.

MPEP 601.01(f) states,

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

This application contains disclosure directed to a process or method. 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 other words, the Office should have mailed a "Notice of Omitted Item(s)" indicating drawings were missing but a filing date had been accorded, rather than a "Notice of Incomplete Application."

The "Notice" mailed June 7, 2007, was mailed in error and is hereby withdrawn.

During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Initial Patent Examination (OIPE) mail a Notice of Incomplete Application. See MPEP 601.01(f).

The drawing page will not be entered as part of the original disclosure:

The Electronic Acknowledgement Receipt supplied by petitioner proves the Office received the following items on May 17, 2007:

(1) 1 page associated with the file name "Abstract.pdf", and
(2) 1 page associated with the file name "Drawings.pdf".

The Office file indicates the Office did not receive 1 page of Abstract and 1 drawing page. Instead, the file indicates the Office received two identical abstract pages. In other words, the file associated with the file name "Drawings.pdf" appears to be identical to the file associated with the file name "Abstract.pdf". A conclusion the files were identical is supported by the fact both files were a single page and the file size of both files was 26,752 bytes.

Absent evidence the drawing file was the exact same byte size as the abstract file, the Office will not enter the drawing page as part of the original disclosure.

Petitioner may file a request to add the missing drawing page by amendment.

Since the application has been accorded a filing date, a petition under 37 CFR 1.57 and the required fee of $400, are not necessary in order to request entry of the missing drawing page. Instead, the request for entry of the drawings should be made by filing an amendment pursuant to 37 CFR 1.57(a)(1).

A formal amendment under 37 CFR 1.57(a) should be filed if petitioner wishes for the drawing to be entered as part of the application.

Petition fee:

The petition fee of $400 has been credited back to petitioner's deposit account.

The Office of Patent Application Processing will be informed of the instant decision and will further process the application with a filing date of May 17, 2007, using the application papers filed on May 17, 2007.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Law Offices of Mark E. Wiemelt, P.C.
Suite 3300
10 S. LaSalle Street
Chicago, IL 60603

In re Application of Araujo et al. :
Application No. 11/749,844 : Decision on Petition
Filing Date: May 17, 2007 :
Attorney Docket No. U 016945-6 :

This is a decision on the petition under 37 CFR 1.181 filed August 3, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

Facts

The Office mailed a non-final Office action on December 30, 2008. The Office action set a three-month shortened statutory period for reply.

The Office received the following papers on July 7, 2009:

(1) Transmittal Form (1 page),
(2) Fee Transmittal Form (1 page),
(3) Amendment (10 pages),
(4) Declaration (2 pages), and
(5) Copy of article titled, "In-Mold Labeling" (4 pages).

The Transmittal Form and the first page of the amendment include a certificate of mailing dated June 30, 2009. The certificate of mailing does not identify the individual mailing the papers and the signature is illegible. However, the certificate of mailing appears to be signed by Attorney Mark Wiemelt.

The Transmittal Form identifies the application number as 11/794,844. The Transmittal Form correctly identifies the first named inventor, the filing date, and the art unit and examiner assigned the matter. The other papers correctly identify the application number.

As a result of the typographical error on the Transmittal Form, the papers filed July 7, 2009, were matched with the file record for Application No. 11/794,844. In addition, the three-month extension of time fee of $555 was charged to petitioner's deposit account and applied to Application No. 11/794,844.

As a result of the fact a reply to the December 30, 2008 Office action was not matched with the file record for the instant application, the Office mailed a Notice of Abandonment on July 22, 2009.

The instant petition was filed August 3, 2009, and requests withdrawal of the holding of abandonment based on an assertion a timely reply was filed in response to the December 30, 2008 Office action.

Discussion

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.

(2) The papers contained sufficient information for the Office to determine the correct application number.

The requirements above have been met.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The papers filed July 7, 2009, have been transferred to the instant application. The $555 previously credited to Application No. 11/794,844 will be credited to the instant application.

Technology Center Art Unit 1791 will be informed of the instant decision and the application, including the papers filed July 7, 2009, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 04/20/2010

Applicant	: Ruedger Rubbert	: DECISION ON REQUEST FOR
Patent Number	: 7661281	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/749,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **215** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BUTLER, SNOW, O'MARA, STEVENS
& CANNADA PLLC
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MEMPHIS TN 38119

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OFFICE OF PETITIONS

In re Application of	:	
Dipak Negandhi, Joe Dvorak,	:	DECISION REFUSING STATUS
Jim Ervin and Mark Delorenzo	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/749,861	:	
Filed: May 17, 2007	:	
Atty Docket No. 028502.59221	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)" filed July 13, 2007.

The petition is **DISMISSED**.

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

The above-identified application was filed on May 17, 2007, without an executed oath or declaration. Accordingly, on June 7, 2007, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants timely filed the surcharge under § 1.16(l) and the instant petition under § 1.47 (and fee of $200, not $130)). The petition included a declaration executed by inventors Negandhi, Dvorak and Ervin on behalf of themselves and on behalf of non-signing inventor Delorenzo. Applicants assert that status under § 1.47(a) is proper because inventor Delorenzo has refused to join in the application. In support thereof, applicants submit the statement of Joe Dvorak, setting forth the facts relied on to conclude that inventor Delorenzo has refused to join in the application after a bona fide attempt to present all of the application papers with the declaration for signature.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Requirements (1), (3) and (4) have been satisfied. The petition includes an adequate showing of the unavailability of inventor Delorenzo to join in the application inasmuch as it shows that he has refused to accept the application papers for signature. The required petition fee of $200 (not $130) has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of the non-signing inventor.

However, the petition is not grantable because it does not satisfy requirement (2). Applicants submitted a "DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)". This type of declaration does not include the mailing address and residence of the inventors. In order for such a declaration to be accepted as in compliance with § 1.63(c), which requires the declaration include the mailing address and residence of each inventor, an application data sheet (ADS) with the mailing address and residence must have been submitted. No ADS has been submitted in this application. Accordingly, the declaration is not acceptable.

On renewed petition, petitioner may cure this deficiency by filing an executed supplemental ADS in compliance with 1.76 supplying the mailing address and residence of each inventor as required by 37 CFR 1.63(c). Petitioner is reminded that any ADS filed after the initial filing of the application must be entitled "Supplemental Application Data Sheet" and must be signed pursuant to 37 CFR 1.33(b). See 37 CFR 1.76. Alternatively, applicants may submit a newly executed declaration containing all of the required information for each inventor. (The previous declaration cannot be altered and resubmitted).

To facilitate resolution of this matter, petitioner may call the undersigned when the "RENEWED PETITION" and response have been made of record.

Receipt of the Power of Attorney and Correspondence Address Indication Form (to customer no. 28172 for both) filed July 13, 2007 is acknowledged and has been made of record.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Dipak Negandhi, Joe Dvorak,	:	DECISION ACCORDING STATUS
Jim Ervin and Mark Delorenzo	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/749,861	:	
Filed: May 17, 2007	:	
Atty Docket No. 028502.59221	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)" filed January 31, 2008.

The petition is **GRANTED**.

The above-identified application was filed on May 17, 2007, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed June 7, 2007, on July 13, 2007, applicants filed the initial petition under 37 CFR 1.47(a). The petition included a declaration executed by inventors Negandhi, Dvorak and Ervin on behalf of themselves and on behalf of non-signing inventor Delorenzo. Applicants asserted that status under § 1.47(a) is proper because inventor Delorenzo has refused to join in the application. In support thereof, applicants submitted the statement of Joe Dvorak, setting forth the facts relied on to conclude that inventor Delorenzo has refused to join in the application after a bona fide attempt to present all of the application papers with the declaration for signature. The last known address of the non-signing inventor was provided.

By decision mailed December 10, 2007, the petition was dismissed. The petition was deficient, in that, the declaration submitted was not in compliance with 37 CFR 1.63. Specifically, the declaration did not include the mailing address and residence of the inventors.

On renewed petition, petitioner cured this deficiency by filing an executed supplemental ADS in compliance with 1.76 supplying the mailing address and residence of each inventor as required by 37 CFR 1.63(c).

All requirements of 37 CFR 1.47(a) have now been met. The declaration filed July 13, 2007, in conjunction with the supplemental ADS, is now in compliance with § 1.63.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

The petition fee required pursuant to 1.17(g) of $200 (not $130) has been charged to Deposit Account No. 50-1465, as authorized.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MARK DELORENZO
1417 East Weidman Road
Rosebush MI 48878

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OFFICE OF PETITIONS

In re Application of :
Dipak Negandhi, Joe Dvorak, :
Jim Ervin and Mark Delorenzo :
Application No. 11/749,861 : LETTER
Filed: May 17, 2007 :
Atty Docket No. 028502.59221 :

Dear Mr. Delorenzo:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

BUTLER, SNOW, O'MARA, STEVENS
& CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS TN 38119

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

Mail Date: 04/21/2010

Applicant	: Harshal H. Shah	: DECISION ON REQUEST FOR
Patent Number	: 7639140	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/749,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **375** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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WILLIAMSON INTELLECTUAL PROPERTY LAW, LLC
1870 THE EXCHANGE, SUITE 100
ATLANTA GA 30339

SEP 12 2007

In re Application of: GRAY
Serial No.: 11/749,911
Filed: May 17, 2007
Title: POOL OR SPA COVER AND METHODS THEREFOR

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 17, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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, 5.1, 5.3, 6, 6.1 and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II : 5.2, 6.2, 6.3, 6.4 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 four page PTO/SB/28 form, the "pre-examination search document" including pages 1-4; the "accelerated examination support document" comprising pages 1- 8, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

Regarding the requirements of section II element 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 4 subclasses 503 and 494. Searching in class 135 subclasses 96, 98 and class 52 subclasses 2.11, 3 and 5 also appear on point. Further, it is not clear from the listed class/subclass searching or from the listed database/text searching how the limitations of the dependent claims were specifically searched for. For example, how was the plurality of straps fixably secured to the cover of claim 3 specifically searched or the auger of claim 12 specifically searched? Regarding the text search listed, it appears to be to narrow to provide meaningful results in that it appears the text searching was limited to "title" indexes of the databases in most databases searched, and to narrow international classifications in addition. No synonyms were used and it appears that no analogous arts were considered. Finally, no apparent text search for the limitations of the dependent claims is seen: as noted above it is not know how these claims were specifically searched for by petitioner.

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 each of the reference(s) and where the limitation is disclosed in each of the cited reference. 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", nor does it allow for grouping and general discussions. A grantable petition must delineate every limitation of every claim and identify where the equivalent limitation is disclosed in each piece of prior art cited on the IDS. As is published on www.uspto.gov/web/patents/accelerated/ in "Guidelines for Applicants under the new accelerated examination procedures"):

> *For each reference cited, the accelerated 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. Applicants should specify where in each of the cited references the particular claim limitations are found. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective*

interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.

First, petitioner's submission only discusses the independent claims. As noted above, this is incomplete in that a grantable petition requires all claims be mapped against the closest prior art. Second, petitioner's submission is not specific enough nor complete. Petitioner correctly lists all claim limitations and lists all closest prior art in a chart format: however petitioner only points to figure numbers or in a single instance "abstract" for pointing out the location where the corresponding limitation is found. This is not specific in that petitioner does not point to elements of a figure or column/line of specification so that the equivalence of the prior art to the claimed limitation can be readily determined. By only referring to figures, petitioner fails to include the possibility that certain elements of the prior art are "not shown". For example, in the discussion of claim 1 in view of the US 6381767 prior art, petitioner does not equate any portion of the '767 patent with limitations (c) "a cover" or (d) "a plurality of receiving pockets for receiving ...support mechanisms" of claim 1. Looking at the '767 patent figures only, this may appear true. However, a quick review of the '767 patent reveals a cover disclosed at column 3 line 29 and it is unclear why sleeve 58 does not equate to the pockets of (d). The same appears true for US patent 4951327 with respect to (c) and (d). In '327, a cover is taught at column 6 line 60, and element 22 of Figure 5 appears equivalent to limitation (d). In 6487734, socket 42 appears equivalent to limitation (d) as well. The undersigned has not performed and exhaustive comparison of all closest prior art to that which is stated in the provided chart. However, the three randomly selected to check results in the questions outlined herein. This section of the petition appears wholly deficient.

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). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. The policy statement does not caveat "the independent claims", nor does it allow for grouping and general discussions. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, the arguments for patentability are too vague to be meaningful. For example petitioner submits, "all of the references identified above fail to at least teach of suggest [clause d of claim 1]". However, as noted above, it appears that multiple closest prior art disclose limitation clause d of claim 1. Continuing, petitioner opines "all of the reference identified above fail to at least teach

of suggest 'assembling a cover, wherein said assembling step further comprise the steps of : ...[multiple limitations listed]' as required in clause (a) of claim 16. However, as noted above it appears that multiple closest prior art disclose a cover limitation. It is not clear why, if a cover having all of the structure required by the claim exists, petitioner is of the opinion is was not assembled or would not have been obvious to one of ordinary skill in the art to assemble. By what other method would the cover be constructed? A similar criticism could be made for the reasons for patentability of claim 18. It is not clear why at least the references noted hereinabove do not anticipate the claims as presently recited. Clearly, an 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) has not been provided. As the limitations of each claim are not completely mapped to each of the cited prior art as required by element 6.2 of the policy, it is not clear how arguments as to the novelty and nonobviousness of the instant claims can be substantiated by the petition. For at least these reasons, the petition does not meet the requirement of section II, element 6.3

Regarding the requirements of section II element 6.4 outlined above, the petition fails to identify a concise statement of the utility of the invention as defined in each of the independent claims. A general statement directed to the overall concept of the invention is not specifically relating the utility to each of the independent claims as is required by the policy. Petitioner should reference the independent claims specifically when discussing the utility of the invention.

Finally, regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of each claim specifically finds support under 35 USC 112, first paragraph, in the written description of the specification. The instant petition only identifies multiple figures and portions of text without referencing any claim numbers, as supporting the invention as opposed to the required claim limitations. This section is wholly deficient. Further, 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. This includes any file for which benefit under 35 USC is claimed.

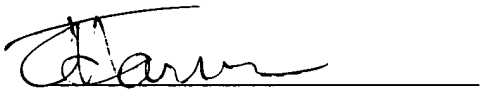
DECISION

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 Programs Examiner
Technology Center 3700

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WILLIAMSON INTELLECTUAL PROPERTY LAW, LLC
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ATLANTA GA 30339

DEC 07 2007

In re Application of: GRAY
Serial No.: 11/749,911
Filed: May 17, 2007
Title: POOL OR SPA COVER AND METHODS THEREFOR

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 of petition filed on November 21, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is 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 CFR 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 pre-examination search or the accelerated examination support document, applicant must provide an updated pre-examination search and 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 pre-examination search and 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 CFR 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.

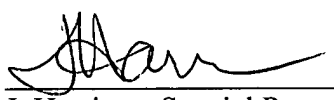
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 J. Harrison, Special Program Examiner, at (571) 272-4449.



J. Harrison, Special Program Examiner
Technology Center 3700

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OCT 27 2008

Heller Ehrman LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

In re Application of	:	
Charles Smith, et al.	:	
Application No. 11/749,925	:	DECISION ON PETITION
Filed: May 17, 2007	:	TO WITHDRAW
Attorney Docket No. 39898-1050	:	FROM RECORD
	:	

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 20, 2008.

The request is **APPROVED**.

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

The request was signed by 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 Office action mailed August 13, 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: **Charles Smith**
855 Straford Knolls
Encinitas, CA 92024-6674

cc: **Goodwin Procter LLP**
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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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
11/749,925	05/17/2007	Charles Smith	39898-1050

CONFIRMATION NO. 9145

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000032798776

Date Mailed: 10/27/2008

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.

/hgray/

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
Alon Konchitsky

Application No. 11749927

Filed: May 17,2007

Attorney Docket No. KON157

: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 22-OCT-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,001	05/17/2007	Yoshinao NAITO	Q101749	9296

7590 09/08/2009

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

EXAMINER	
CHEN, JOSE V	
ART UNIT	**PAPER NUMBER**
3637	
MAIL DATE	**DELIVERY MODE**
09/08/2009	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

Adjustment date: 09/08/2009 NFARMER
05/18/2007 INTEFSW 00000171 194800 11750001
02 FC:1111 500.00 CR

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

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JUL 01 2008

In re Application of	:	
Shattuck, et al.	:	DECISION GRANTING STATUS
Application No. 11/750,019	:	UNDER 37 CFR 1.47(a)
Filed: May 17, 2007	:	
Attorney Docket No. IHCINC.003C1C1	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 8, 2008.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventors, Donna Shattuck, Deanna Russell, Victor Abkevich, and Chris Neff, have refused, through their corporate attorney, to join in the filing of the above-identified application.

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

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

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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CHRIS NEFF
1677 HARVARD AVENUE
SALT LAKE CITY UT 84105

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JUL 01 2008

In re Application of	:	
Shattuck, et al.	:	LETTER
Application No. 11/750,019	:	
Filed: May 17, 2007	:	
Attorney Docket No. IHCINC.003C1C1	:	

Dear Mr. Neff:

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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

VICTOR ABKEVICH
400 EAST 500 SOUTH
APT. #2306
SALT LAKE CITY UT 84111

COPY MAILED

JUL 01 2008

In re Application of	:	
Shattuck, et al.	:	LETTER
Application No. 11/750,019	:	
Filed: May 17, 2007	:	
Attorney Docket No. IHCINC.003C1C1	:	

Dear Mr. Abkevich:

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.

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DEANNA RUSSELL
2731 S. HARTFORD STREET
SALT LAKE CITY UT 84106

COPY MAILED

JUL 01 2008

In re Application of :
Shattuck, et al. : LETTER
Application No. 11/750,019 :
Filed: May 17, 2007 :
Attorney Docket No. IHCINC.003C1C1 :

Dear Ms. Russell:

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.

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Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
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IRVINE CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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DONNA SHATTUCK
18174 TEXAS STREET
SALT LAKE CITY UT 84108

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JUL 01 2008

In re Application of :
Shattuck, et al. : LETTER
Application No. 11/750,019 :
Filed: May 17, 2007 :
Attorney Docket No. IHCINC.003C1C1 :

Dear Ms. Shattuck:

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.

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Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 04/20/2010

Applicant	: Jeffrey Raynor	: DECISION ON REQUEST FOR
Patent Number	: 7586168	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,024	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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MAR 31 2008

OFFICE OF PETITIONS

In re Application of :
Khalil Hosseine :
Application No. 11/750,051 : ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. :
1442.106.101/INFO24US

This is in response to the "Petition Under 37 CFR §1.57(a) to Accord Filing Date " filed February 13, 2008 requesting that the above-referenced application be accorded a filing date of May 17, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on May 17, 2007. Drawings were subsequently filed in the application on May 21, 2007. However, on June 20, 2007, the Office of Patent Application Processing 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. It is however noted, that on June 20, 2007 a Notice to File Missing Parts of Nonprovisional Application was also mailed. A review of the record shows that a filing date of May 21, 2007, the date drawings were received in the Office, was granted. Petitioner filed a declaration and surcharge in reply to the Notice to File Missing Parts on August 17, 2008.

Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 or 1.78.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one process claim. MPEP 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

---

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, 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). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

> [i]f 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 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 omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

To the extent the instant petition requests a filing date of May 17, 2007 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded.

Pursuant to this decision, the application will be referred to Office of Patent Application Processing for:

- **correction of the filing date to May 17, 2007**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

Entry of the amendment filed February 13, 2007 will be determined by the examiner.

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

Anthony Knight
Supervisor
Office of Petitions

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FROM DIRECTORS OFFICE

JUL 18 2007

TECHNOLOGY CENTER 3600

Fish and Richardson P.C.
1425 K St., N.W.
11th Floor
Washington, DC 20005-3500

In re application of
Mike Hsu et al.
Application No. 11/750064
Filed: May 29, 2007
For: E-COUPONING

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

This is a decision on the petition filed on May 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.2 and II.6.3, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, with respect to the text searches in USPTO EAST, Thompson Micropatent, IEEE, and ACM, the petition lacks sufficient search logic. With respect to USPTO EAST and Thompson Micropatent, while adequate synonyms are used, the searches are directed to broader concepts than the claim limitations and do not adequately encompass all the features of the claims. For example, independent claims 1, 12, and 20 recite that coupons are associated with user accounts, that coupons are redeemed, and that coupons have identifiers, none of which are contained in the search logic. This is specifically important since section III, Detailed Explanation of Patentability, states that none of the prior art references teach "receiving, from the first computer system, the information indicating that the user has redeemed the electronic coupon" or a message hub that receives information that the user has redeemed the electronic coupon, as well as canceling redeemability. It is noted that the term "redeem*" appears in search logic (2) and (17), however this search logic focuses on transmission, or network hardware, instead of the concept of redemption prevention. Further, the search must encompass the features of all the claims, including the dependent claims. In this case, the dependent claims add additional features that do not appear in search queries. For example, claim 7 recites loyalty cards associated with a loyalty server; however, there are no search terms in the search queries directed to loyalty programs, cards, or servers. Finally, the logic listed shows operators that do not function properly in the tools indicated. For example, search logic (1) uses the asterisk apparently as a wild card operator but this does not function as such in EAST. The actual search logic for each tool should be shown.

The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/.
Additionally, a sample of search logic for one claimed concept to be used in this application is provided below:

> (coupon$4 or e-coupon$1 or ecoupon$1 or (electronic$4 near3 coupon$4) or discount$4 or promotion$4 or offer$4 or reward$1 or loyalty) with (account$1 or card$1) same ((cancel$9 or delet$4 or remov$6 or prevent$4 or void$4 or eras$4 or prohibit$4 or stop$5 or control$4 or manag$6) with (redeem$6 or redemption$4))

This sample search logic example above is not meant to be the sole search logic that can be employed in this application as applicant's claims contain several concepts to be searched, but is meant only as a starting point for applicant's assistance.

Further with respect to condition II.5.2, the database search outlined in the Search Document with respect to the text searches in IEEE and ACM lacks sufficient search logic for the same reasons discussed above. Again, the searches are directed to broader concepts than the claim limitations and do not adequately encompass all the features of the claims. Further, the search must encompass the features of all the claims, including the dependent claims. The USPTO website has search templates that are broken down by class and subclass and provide a listing of the databases to be

searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm. For applications in US class/subclass 705/14, such as the current application, the NPL searches here miss such databases as ABI/Inform and Gale Group Marketing & Advertising Reference Service directly related to marketing and advertising.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. While the explanation of patentability for the independent claims appears to be acceptable, the explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims. Specifically, the Detailed Explanation of Patentability on Page 93 states that "claims 2-11 and 13-19 each depend directly or indirectly from independent claims 1 or 12 and are believed to be allowable for at least the reason of that dependency". However, the explanation provided in Section II, Identification of Limitations by the references and showing of support under 35 U.S.C. 112, First Paragraph, of the Support Document shows, per reference, limitations not taught in each dependent claim. Therefore, it is not clear whether the dependent claims are deemed to be separately patentable or if they are not deemed to be separately patentable. Thus, the explanation of patentability needs to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or whether they are not deemed to be separately patentable.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 7/16/07

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AUG 07 2007

TECHNOLOGY CENTER 3600

Fish and Richardson P.C.
1425 K St., N.W.
11th Floor
Washington, DC 20005-3500

In re application of
Mike Hsu et al.
Application No. 11/750064
Filed: May 29, 2007
For: E-COUPONING

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

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REGULATION AND PRACTICE

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Additionally, a sample of search logic for one claimed concept to be used in this application is provided below:

> (coupon$4 or e-coupon$1 or ecoupon$1 or (electronic$4 near3 coupon$4) or discount$4 or promotion$4 or offer$4 or reward$1 or loyalty) with (account$1 or card$1) same ((cancel$9 or delet$4 or remov$6 or prevent$4 or void$4 or eras$4 or prohibit$4 or stop$5 or control$4 or manag$6) with (redeem$6 or redemption$4))

This sample search logic example above is not meant to be the sole search logic that can be employed in this application as applicant's claims contain several concepts to be searched, but is meant only as a starting point for applicant's assistance.

Further with respect to condition II.5.2, the database search outlined in the Search Document with respect to the text searches in IEEE and ACM lacks sufficient search logic for the same reasons discussed above. Again, the searches are directed to broader concepts than the claim limitations and do not adequately encompass all the features of the claims. Further, the search must encompass the features of all the claims, including the dependent claims. The USPTO website has search templates that are broken down by class and subclass and provide a listing of the databases to be

searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm. For applications in US class/subclass 705/14, such as the current application, the NPL searches here miss such databases as ABI/Inform and Gale Group Marketing & Advertising Reference Service directly related to marketing and advertising.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. While the explanation of patentability for the independent claims appears to be acceptable, the explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims. Specifically, the Detailed Explanation of Patentability on Page 93 states that "claims 2-11 and 13-19 each depend directly or indirectly from independent claims 1 or 12 and are believed to be allowable for at least the reason of that dependency". However, the explanation provided in Section II, Identification of Limitations by the references and showing of support under 35 U.S.C. 112, First Paragraph, of the Support Document shows, per reference, limitations not taught in each dependent claim. Therefore, it is not clear whether the dependent claims are deemed to be separately patentable or if they are not deemed to be separately patentable. Thus, the explanation of patentability needs to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or whether they are not deemed to be separately patentable.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 7/16/07

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OCT 12 2007

TECHNOLOGY CENTER 3600

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Fish and Richardson P.C.
P.O. Box 1022
Minneapolis MN 55440-1022

In re application of
Mike Hsu et al.
Application No. 11/750064
Filed: May 29, 2007
For: E-COUPONING

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

This is a decision on the renewed petition filed on August 17, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 CFR 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 to 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 CFR 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 CFR 1.181, 182 or 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt
Business Practice Specialist
Technology Center 3600

RW/bvd: 10/9/07

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,072	05/17/2007	Osamu NISHIKAWA	Q101805	9449

65565 7590 08/31/2009

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER	
CRUZ, MAGDA	
ART UNIT	PAPER NUMBER
2851	

MAIL DATE	DELIVERY MODE
08/31/2009	PAPER

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

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

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SUGHRUE-265550
2100 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20037-3213
UNITED STATES

In re Application of	
Osamu NISHIKAWA	**: DECISION ON REQUEST TO**
Application No.: 11/750,072	**: PARTICIPATE IN THE PATENT**
Filed: 17 May 2007	**: PROSECUTION HIGHWAY**
Attorney Docket No.: Q101805	**: PROGRAM AND PETITION**
For: THREE DIMENSIONAL DISPLAY SYSTEM	**: 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 18 June 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application is

   a. a Paris Convention application which either
      i. validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
      ii. validly claims priority to a PCT application that contains no priority claims,

   or

   b. a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
      i. validly claims priority to an application filed in the JPO, or
      ii. validly claims priority to a PCT application that contains no priority claims, or
      iii. contains no priority claim,

   or

c. a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
    i. validly claims priority to an application filed in the JPO, or
    ii. validly claims priority to a PCT application that contains no priority claims, or
    iii. contains no priority claim;

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s);
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:
    a. Ensure 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) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition meet the requirements (1) through (7), above.

CONCLUSION

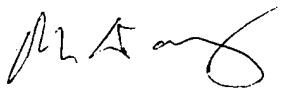
The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

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



Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,074	05/17/2007	Hiroyuki Wada	308698US2SCONT	9452

7590 03/03/2008

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

EXAMINER	
COLEMAN, WILLIAM D	

ART UNIT	PAPER NUMBER
2823	

NOTIFICATION DATE	DELIVERY MODE
03/03/2008	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,074	05/17/2007	Hiroyuki Wada	308698US2SCONT	9452

7590 03/03/2008

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

EXAMINER	
COLEMAN, WILLIAM D	

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

Patent Publication Branch
Office of Data Management

Adjustment date: 03/04/2008 KKING1
05/18/2007 INTEFSW 00000528 11750074
02 FC:1111 -500.00 OP

Refund Ref:
03/04/2008 0030051432

Credit Card Refund Total: $500.00

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of

FISHER, William W. III
Application No. 11/750,087
Filed: May 17, 2007
Attorney Docket No. **2003428.00123US1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GLOBAL PATENT GROUP**
ATTN: MS LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
FRONTENAC, MO 63131

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

Mail Date: 04/21/2010

Applicant	: Ahmadreza Rofougaran	: DECISION ON REQUEST FOR
Patent Number	: 7586458	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,091	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of :
Humble et al. :
Application No. 11/750,093 : ON PETITION
Filed: May 17, 2007 :
Attorney Docket No. 504-P0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 25, 2009. A Notice of Abandonment was mailed July 8, 2009.

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3764 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JOSEPH V. TASSONE, ESQ.
DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG OH 45342

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OFFICE OF PETITIONS

In re Application of	:	
Hatchett et al.	:	DECISION ON PETITION
Application No. 11/750,108	:	TO WITHDRAW
Filed: May 17, 2007	:	FROM RECORD
Attorney Docket No. 06-01	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 26, 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.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is no Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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3 RIVERWAY
SUITE 600
HOUSTON, TX 77056

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Joseph Fredrick CLEMENT :
Application No. 11/750,126 :
Filed: May 17, 2007 :
Attorney Docket No. 634.002 :

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 May 17, 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 made by registered attorney Tim Headley, which will be treated as the result of the attorney having evidence that the applicant is at least 65 years of age. In the event that such evidence is not with the attorney, the Office should be notified immediately. 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.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

WILSON SONSINI
GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of :
Richard Paul GREEN, III, et al :
Application No. 11/750,128 : DECISION ON PETITION
Filed: May 17, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 35184-702.201 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 17, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Richard Paul Green, Sr. 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.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE WI 53203

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
DuBrucq, Denyse	:	DECISION ON PETITION
Application No. 11/750,149	:	TO WITHDRAW
Filed: May 17, 2007	:	FROM RECORD
Attorney Docket No. 1617.003	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 7, 2010.

The request is **APPROVED**.

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

The request was signed by Christopher J. Kukowski on behalf of all attorneys/agents of record who are associated with Customer Number 23598.

All attorneys/agents associated with Customer Number 23598 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, Denyse DuBrucq, at the address indicated below.

There is an outstanding Office action, mailed November 19, 2009, which requires a timely and proper reply. Failure to do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DENYSE C. DUBRUCQ
100 ELM STREET
CEDARVILLE OH 45314-8575

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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2040 MAIN STREET
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IRVINE CA 92614

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JUN 10 2007

OFFICE OF PETITIONS

In re Application of :
Lagae et al. :
Application No. 11/750,155 : DECISION ON PETITION
Filed: May 17, 2007 :
Attorney Docket No. IMEC437.001AUS :

This is a decision on the petition, filed December 17, 2007 to refund or avoid payment of extension of time fees, under 37 CFR 1.181 (no fee).

The petition is **DISMISSED.**

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181.

This application would have been held abandoned for failure to reply to the Notice to File Missing Parts mailed June 6, 2007, which set an extendable two (2) month shortened statutory period for reply. To make the reply timely a four-month extension of time fee was submitted on December 6, 2007.

Petitioner asserts that the Notice of Missing Parts dated June 6, 2007 was not timely received. Petitioner states a copy of the Notice was not received until October 25, 2007, when the Office of Patent Application Processing provided a faxed copy. Accordingly, petitioner submitted a reply with an extension of time fee to avoid abandonment.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

The petition fails to satisfy all of the above-stated requirements. Specifically, the petition fails to meet requirement(s) 1 and 3.

As to item (1), the statement provided by attorney Carson has failed to describe the system for recording an action received and has failed to establish that the docketing system was sufficiently reliable.

As to item (3), exhibit B provided on petition is a docketing sheet showing the action due in association with the Notice to File Missing parts. However, a master docket or a statement that a master docket does not exist has not been provided. Exhibit B does not appear to be a complete individual docket record for the above application. To the extent exhibit B is a complete individual docket record a statement and supplemental evidence such as a file jacket, incoming mail log should be provided on renewed petition.

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

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROCKWELL AUTOMATION, INC./(AT)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of :
Schnabele and Schunck :
Application No. 11/750,167 : DECISION REFUSING STATUS
Filed: May 17, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 06AB230A/ALBRP509USA :

For: Change Management Methodologies for Industrial Automation and Information Systems

This is a decision on the petition under 37 CFR 1.47(b), filed January 7, 2008.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on May 17, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 7, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, in addition to other items. The instant petition was filed on January 7, 2008, with a request for an extension of time within the fifth month.

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

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

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

(3) the petition fee

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

(5) proof of proprietary interest, and

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

The instant petition has not satisfied items (1), (2), and (5) above.

As to item (1), the statement of the alleged unavailability of the non-signing inventor is not sufficient because it is conclusive in nature and does not provide the facts necessary for the Office to determine whether a diligent effort has been made to locate 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:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.
> The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Any renewed petition under 37 CFR 1.47(b) filed must be accompanied by a statement establishing that a diligent effort was made to locate the non-signing inventors.

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

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any

> person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an oath or declaration for the subject application executed by the 37 CFR 1.47(b) applicant. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above

As to item (5), Section 409.03(f) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner has not established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the application. The petition states that the non-signing inventors agreed to assign their rights to the subject invention to the 37 CFR 1.47(b) applicant, however, no copy of an agreement to that effect accompanied the instant petition. Being careful to adhere to the guidance provided above, the renewed petition must establish that the non-signing inventors assigned, or agreed to assign, their rights to the invention to the 37 CFR 1.47(b) applicant, or that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROCKWELL AUTOMATION, INC./(AT)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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MAY 09 2008

OFFICE OF PETITIONS

In re Application of :
Schnabele and Schunck :
Application No. 11/750,167 : DECISION REFUSING STATUS
Filed: May 17, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 06AB230A/ALBRP509USA :
For: Change Management Methodologies for Industrial Automation and Information Systems

This is a decision on the renewed petition under 37 CFR 1.47(b), filed March 24, 2008.

The renwed petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on May 17, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 7, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, in addition to other items. The instant petition was filed on January 7, 2008, with a request for an extension of time within the fifth month. A petition under 37 CFR 1.47(b) was first filed on January 7, 2008, and dismissed by a decision mailed January 22, 2008.

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

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

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

(3) the petition fee

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

(5) proof of proprietary interest, and

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

The instant petition has not satisfied items (2) and (5) above.

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

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

A review of the application file did not reveal an oath or declaration for the subject application executed by the 37 CFR 1.47(b) applicant. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

As to item (5), Section 409.03(f) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or

(B) the inventor has agreed in writing to assign the invention to the applicant, or

(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Again, Petitioner has not established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the application. The petition states that the non-signing inventors agreed to assign their rights to the subject invention to the 37 CFR 1.47(b) applicant, however, no copy of an agreement to that effect accompanied the instant petition. Being careful to adhere to the guidance provided above, the renewed petition must establish that the non-signing inventors assigned, or agreed to assign, their rights to the invention to the 37 CFR 1.47(b) applicant, or that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROCKWELL AUTOMATION, INC./(AT)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Schnabele and Schunck :
Application No. 11/750,167 : DECISION REFUSING STATUS
Filed: May 17, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 06AB230A/ALBRP509USA :
For: Change Management Methodologies for Industrial Automation and Information Systems

This is a decision on the second renewed petition under 37 CFR 1.47(b), filed August 11, 2008.

The second renewed petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on May 17, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 7, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, in addition to other items. The instant petition was filed on January 7, 2008, with a request for an extension of time within the fifth month. A petition under 37 CFR 1.47(b) was first filed on January 7, 2008, and dismissed by a decision mailed January 22, 2008. A renewed petition under 37 CFR 1.47(b) was filed on March 24, 2008, and dismissed by a decision mailed May 9, 2008.

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

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

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

(3) the petition fee

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

(5) proof of proprietary interest, and

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

The instant petition has not satisfied item (2).

As to item (2) above, petitioner again failed to file a proper oath or declaration under 37 CFR 1.63 with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

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

A review of the application file did not reveal an oath or declaration for the subject application executed by the 37 CFR 1.47(b) applicant. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROCKWELL AUTOMATION, INC./(AT)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
Schnabele and Schunck :
Application No. 11/750,167 : DECISION ACCORDING STATUS
Filed: May 17, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 06AB230A/ALBRP509USA :

For: Change Management Methodologies for Industrial Automation
and Information Systems

This is in response to the renewed petition under 37 CFR 1.47(b), filed October 6, 2008.

The petition is **GRANTED**.

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

The above-identified application was filed on May 17, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 7, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, in addition to other items. The instant petition was filed on January 7, 2008, with a request for an extension of time within the fifth month. A petition under 37 CFR 1.47(b) was first filed on January 7, 2008, and dismissed by a decision mailed January 22, 2008. A renewed petition under 37 CFR 1.47(b) was filed on March 24, 2008, and dismissed by a decision mailed May 9, 2008. A renewed petition was filed on August 11, 2008, and dismissed by a petition mailed August 29, 2008.

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

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 forwarded to the Office of Patent Application Processing for further processing.

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

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of :
Gorokhov et al. : DECISION ON PETITION
Application No. 11/750,217 :
Filed: May 17, 2007 :
Attorney Docket No. 061335 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 13, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Application mailed June 8, 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. No reply having been received, the above-identified application became abandoned on August 9, 2007. The present petition precedes the mailing of a courtesy Notice of Abandonment.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition included the required reply in the form of an executed declaration and late surcharge; the petition fee; and the required statement of unintentional delay.

The petition also included an extension of time fee of $2,230 for extension of time for response within the fifth month. 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). The maximum extendable period for reply ended on January 8, 2008. As the extension of time is not obtainable, this fee is

unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the responses submitted on petition filed March 13, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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IRVINE CA 92614

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
John B. Squicciarini	:	DECISION ON PETITION
Application No. 11/750,232	:	TO WITHDRAW
Filed: May 17, 2007	:	FROM RECORD
Attorney Docket No. GYNTEC.002CP1	:	

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 4, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Terry K. Tullis on behalf of all attorneys of record who are associated with customer No. 20995.

All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/19/10

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 11750233 Patent No.: 7657548

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 2161 **Art Unit**

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 04/28/2010

Applicant	: Michael Topolovac	: DECISION ON REQUEST FOR
Patent Number	: 7610312	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/750,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUN 0 9 2008

In re Application of	:	
Anno Langen, David Connelly	:	DECISION ACCORDING STATUS
Rao Khan, Ioannis Cosmadopoulos	:	UNDER 37 C.F.R. § 1.47(a)
and Jaroslaw Wilkiewicz	:	
Application No. 11/750,261	:	
Filed: May 17, 2007	:	
Attorney Docket No. BEAS-02057US1	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a) INVENTOR REFUSES TO SIGN filed December 5, 2007.

The petition is **GRANTED**.

The above-identified application was filed on May 17, 2007, with an application data sheet but without an executed oath or declaration. Accordingly, on June 13, 2007, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing. This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

On December 5, 2007, applicants filed the instant petition and late surcharge. This response was made timely by an accompanying petition and fee for extension of time within the fourth month. The petition includes three declarations executed in combination by inventors Connelly, Khan, Cosmodopoulos and Wilkiewicz on behalf of themselves and on behalf of non-signing inventor Langen. Applicants assert that status under 1.47(a) is proper because joint inventor Langen refuses to join in the application.

The petition states the facts relied on to conclude that inventor Langen refuses to join in the application. The petition also includes copies of letters sent to inventor Langen transmitting the application papers and requesting his signature, as well as, a copy of a certified mail return receipt signed by inventor Langen acknowledging receipt of one of the letters. Applicants have thereby submitted adequate proof that inventor Langen has, by his conduct in not responding, refused to join in the application after having been presented with the application papers.

The declarations filed December 5, 2007, has been reviewed and found in compliance with § 1.47. The petition includes authorization to charge the petition fee of $200. The petition includes a statement of inventor Langen's last known address.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ANNO LANGEN
973 INDIAN ROCK AVENUE
BERKELEY, CA 94707

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JUN 09 2008

In re Application of :
Anno Langen, David Connelly :
Rao Khan, Ioannis Cosmadopoulos : LETTER
and Jaroslaw Wilkiewicz :
Application No. 11/750,261 :
Filed: May 17, 2007 :
Attorney Docket No. BEAS-02057US1 :

Dear Mr. Langen:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

FLIESLER MEYER LLP
650 CALIFORNIA STREET
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SAN FRANCISCO CA 94108

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OFFICE OF PETITIONS

In re Application of	:	
Yanni et al.	:	DECISION ON APPLICATION
Application Number: 11/750262	:	FOR
Filing Date: 05/17/2007	:	PATENT TERM ADJUSTMENT
Atty. Dkt. No. 3040 US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed on January 21, 2010, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance mailed on December 11, 2009. Applicants request that the initial determination of patent term adjustment be corrected from 222 days to 224 days.

The application for patent term adjustment is **DISMISSED**.

Applicants are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136.

On December 11, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date was 222 days. The period of adjustment of 224 days was reduced by 2 days for applicant delay.

In response, on January 21, 2010, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e).[1]

Applicants request that the patent term adjustment be corrected to 224 days. Specifically, applicants assert that the 2 day reduction for the filing of a reply on August 17, 2009, three (3) months and two (2) days after the mailing of an Office on May 15, 2009, should be removed because the three (3) month period for reply ended on a Saturday, and the reply was timely filed on Monday, August 17, 2009.

35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants.[2] 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.[3]

It is undisputed that the reply to the Office action mailed on May 15, 2009 was filed on August 17, 2009, three (3) months and two (2) days after the date the Office action was mailed. In this regard, the timeliness of the reply for purposes of avoiding abandonment is not relevant to the determination of patent term adjustment.[4] Accordingly, applicants' argument on application for patent term adjustment is not found persuasive.

As the reply was filed on August 17, 2009, three (3) months and two (2) days after the date the Office action was mailed, May 15, 2009, entry of a period of reduction of 2 days for applicant delay is warranted.

In view thereof, no change will be made to the determination of patent term adjustment at the time of the mailing of the notice of allowance.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue

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[1] A review of Office financial records reveals the issue fee was paid on February 4, 2010.

[2] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

[3] See 37 CFR 1.704(b).

[4] See also, 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
Yunqi Shao et al. :
Application No. 11/750,309 : DECISION ON PETITION
Filed: May 17, 2007 : TO WITHDRAW
Attorney Docket No. 025748-002300US : FROM RECORD
:

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

The requests are **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 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

cc: Shanghai Shao
Room 101, Building 2
690 Bi Bo Road
Zhangjiang Hi-Tech Park
Shanghai, China

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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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JUL 11 2008

In re Application of :
Masayori, et al. :
Application No. 11/750,314 : ON PETITION
Filed: May 17, 2007 :
Attorney Docket No. 18622-15 :

This is in response to the petition under 37 CFR 1.47(a), filed March 12, 2008.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Motoo Suzuki, has constructively refused to join in the filing of the above-identified application.

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

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

After the mailing of this decision, the application will be forwarded to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOO SUZUKI
DEPT. OF MOLECULAR MICROBIOLOGY,
FACULTY OF MEDICINE
KAGAWA UNIVERSITY
1750-1, IKEDO
MIKI-CHO, KIDA-GUN
KAGAWA-KEN 761-0793
JAPAN

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JUL 11 2008

In re Application of :
Masayori, et al. :
Application No. 11/750,314 : ON PETITION
Filed: May 17, 2007 :
Attorney Docket No. 18622-15 :

Dear Mr. Suzuki:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of

the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Jason Gasocoigne :
Application No. 11/750,460 : DECISION ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. 07gas33u :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a restriction requirement mailed November 4, 2009. The Office Action set a one (1) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 5, 2009. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply to the restriction requirement (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Charles Frederick BARNES :
Application No. 11/750,483 : DECISION ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. Q101612 :

This is a decision on the petition, filed June 22, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Non-final Office action mailed December 29, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 08, 2009.

Petitioner asserts that the Patent Office issued the Notice of Abandonment in error and disputes that confirmation of any request or intention to abandon the instant application was given.

A review of the written record indicates an irregularity in the mailing of the Notice of Abandonment of June 8, 2009. In this regard, a reply to the Non-final Office action and extension of time fees were timely filed on June 29, 2009. Accordingly, as the Notice of Abandonment was inadvertently issued, the Notice of Abandonment mailed June 8, 2009 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center Art Unit 2627 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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JUL 1 1 2008

OFFICE OF PETITIONS

In re Application of Datwyler et al. :
Application No. 11/750,507 : Decision on Petition
Filing Date: May 18, 2007 :
Attorney Docket No. 8859USO1 :

This is a decision on the petition filed March 31, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application. The petition is filed in the alternative under 37 CFR 1.137(b).

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

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

Procedural History:

The application was filed with an unexecuted declaration.

The Office mailed a Notice to File Missing Parts on June 21, 2007. The Notice required the submission of an executed oath or declaration and the surcharge set forth in 37 CFR 1.16(f). The Notice set a period for reply of two (2) months from the mail date of the Notice.

The Office did not receive a reply to the June 21, 2007, or a request for an extension of time. As a result, the application became abandoned on August 22, 2007.

A Notice of Abandonment was issued March 4, 2008.

The petition under 37 CFR 1.181:

Petitioner asserts a belief that applicants' counsel timely filed an executed declaration. However, petitioner cannot supply a copy of the executed declaration originally filed because petitioner cannot locate the original application file.

Petitioner notes the existence of an irregularity in the file wrapper for the instant application. Specifically, the file wrapper contains an Information Disclosure Statement (IDS) filed July 31,

2007, clearly intended for another application. Although the IDS indicate it should be filed as part of Application No. 11/750,507, the title, inventor name, attorney docket number, and other information indicates the IDS should have been matched with a different application.

Petitioner notes the irregularity in the file might be an indication of a problem that may have had an affect on the Office's ability to match the executed declaration with the file. Petitioner requests the Office investigate the matter and determine if the executed declaration filed for the instant application can be located.

The Office has determined the IDS field July 31, 2007, included an incorrect application number. The application number on the paper should have been Application No. 11/750,597, rather than Application No. 11/750,507. The IDS has been transferred to the correct application file.

Unfortunately, the Office has been unable to locate any executed declaration file for the instant application prior to the date the instant petition was filed. Therefore, the Office is unable to withdraw the holding of abandonment.

The petition under 37 CFR 1.137(b):

Petitioner requests, if the holding of abandonment is not withdrawn, the Office revive the application pursuant to 37 CFR 1.137(b).

The petition includes a proper reply to the outstanding Notice to File Missing Parts. The petition includes 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 petition includes authorization to charge the required petition fee to petitioner's deposit account and $1,540 has been charged to the deposit account.

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

The Office of Patent Application Processing will be informed of the instant decision and the application will be prepared for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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EVAN LAW GROUP LLC
600 WEST JACKSON BLVD, SUITE 625
CHICAGO IL 60661

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Kin Chung WONG	:	
Application No. 11/750,518	:	DECISION ON PETITION
Filed: May 18, 2007	:	TO WITHDRAW
Attorney Docket No. WKG07-014-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2010.

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.

In this regard, the request to withdraw from record cannot be approved because no change of 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.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

Mail Date: 04/20/2010

Applicant	: ARLAN R. SMITH	: DECISION ON REQUEST FOR
Patent Number	: 7654229	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2007	: 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

In re Application of :
Fritz F. Parl :
Application No. 11/750,609 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. :
VBLT096USD1/10706206

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 18, 2009. A Notice of Abandonment was mailed September 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 1643 for further examination on the merits.

Chris Bottorff
Petitions Examiner
Office of Petitions

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LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE COURT
HILLSBORO, OR 97124-6421

Mail Date: 04/20/2010

Applicant	: Ravindar M. Lall	: DECISION ON REQUEST FOR
Patent Number	: 7632011	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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MAR 03 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

In re Application of
YAZAWA, TAKESHI, et al.
Application No. 11/750,619
Filed: May 18, 2007
Attorney Docket No. **01272.134057.**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed January 29, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

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

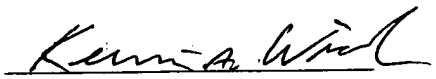
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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

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



Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HESLIN ROTHENBERG FARLEY &MESITI
5 COLUMBIA CIRCLE
ALBANY NY 12203

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Patrick Carteron et al	:	
Application No. 11/750,680	:	DECISION ON PETITION
Filed: May 18, 2007	:	
Attorney Docket No. 1759.271	:	

This is a decision on the request filed June 29, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $425.00, submitted on May 18, 2007, has been credited to petitioner's deposit account no. 08-1935.

As no further action will be taken in this application, the request for refund of the filing fee is also being construed as a request to expressly abandon the above-mentioned application. Accordingly, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH J. CRIMALDI
ROETZEL & ANDRESS
222 S. MAIN ST.
AKRON OH 44308

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OFFICE OF PETITIONS

In re Application of	:	
Daniel J. SMITH et al.	:	
Application No. 11/750,686	:	DECISION ON PETITION
Filed: May 18, 2007	:	
Attorney Docket No. **089498.0622.US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 23, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 23, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Rajnesh Krishnamurthy

Rajnesh Krishnamurthy
Petitions Examiner
Office of Petitions

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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	: Stan Shepherd	: DECISION ON REQUEST FOR
Patent Number	: 7619846	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2007	: 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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LAITRAM, L.L.C.
LEGAL DEPARTMENT
220 LAITRAM LANE
HARAHAN, LA 70123

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SEP 16 2009

OFFICE OF PETITIONS

In re Application of
Robert E. Rouquette
Application No.: 11/750,803
Filed: May 18, 2007
Attorney Docket No.: 2323.0

ON PETITION

This is a decision on the petition, filed September 14, 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 August 28, 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.

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

The application is being referred to Technology Center AU 3662 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES T. CRONVICH
LAITRAM L.L.C.
200 LAITRAM LANE
HARAHAN, LA 70123

[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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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007131
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

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JUN 0 3 2010

OFFICE OF PETITIONS

In re Application of Ghosh et al. :
Application No. 11/750,808 : Decision on Petition
Filing Date: May 18, 2007 :
Attorney Docket No. 007131.00031 :

This is a decision on the "Petition Under 37 C.F.R. §§ 1.183 and 1.47(A)" filed May 21, 2010. The petition has been treated as a petition under 37 CFR 1.183 to waive the need for the signatures of all the inventors on a 37 CFR 1.131 declaration.[1]

The petition under 37 CFR 1.183 is **granted**.

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

The petition is accompanied by a declaration under 37 CFR 1.131 signed by five of the six inventors. The declaration is not signed by inventor Frank Turner.

Petitioner has filed a petition under 37 CFR 1.183. A petition under 37 CFR 1.183 is appropriate when an inventor's signature cannot be obtained on a declaration under 37 CFR 1.131. As stated in MPEP 715.04(I),

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint

[1] The provisions of 37 CFR 1.47(a) only apply to an original declaration filed under 37 CFR 1.63. The declaration at issue is being filed pursuant to 37 CFR 1.131, not 37 CFR 1.63. Therefore, the petition has not been treated as a petition under 37 CFR 1.47(a).

inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

Petitioner has shown multiple attempts have been made to obtain Turner's signature on the declaration under 37 CFR 1.131. Petitioner has show Turner has refused to sign the declaration

In view of the efforts recounted in the petition to obtain the signature of Frank Turner, it is agreed that justice would be served by waiving the requirement for Frank Turner's signature on the declaration under 37 CFR 1.131 filed May 21, 2010.

The declaration under 37 CFR 1.131 has been accepted, on petition, and placed in the file.

Technology Center Art Unit 3694 will be informed of the instant decision and the application, including the declaration under 37 CFR 1.131, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of :
Robert Rabiner et al :
Application No. 11/750,829 : DECISION ON PETITION
Filed: May 18, 2007 : TO WITHDRAW
Attorney Docket No. 18554-003003 : FROM RECORD
:

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 and resubmitted on September 18, 2009.

The request is **APPROVED**.

The request was signed by Sean P. Daley on behalf of all attorneys of record.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert Rabiner
14 Equestrian Drive
North Reading, MA 01864

cc: Omnisonics Medical Technologies, Inc.
c/o John Aquino (Bankruptcy Trustee)
Anderson Aquino LLP
240 Lewis Wharf
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/750,829	05/18/2007	Robert Rabiner	18554-003003

CONFIRMATION NO. 1815

POWER OF ATTORNEY NOTICE

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 09/28/2009

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/750,829	05/18/2007	Robert Rabiner	18554-003003

CONFIRMATION NO. 1815

POA ACCEPTANCE LETTER

Robert Rabiner
14 Equestrian Drive
North Reading, MA 01864

OC00000003786731

Date Mailed: 09/28/2009

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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Dascenzo Intellectual Property Law, P.C.
522 SW 5th Ave
Suite 925
Portland, OR 97204-2126

Mail Date: 04/21/2010

Applicant	: Clint A. Beliveau	: DECISION ON REQUEST FOR
Patent Number	: 7629067	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **24** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE PA 19081

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JUL 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Dustin M. SNELL et al.	:	
Application No. 11/750,859	:	DECISION ON PETITION
Filed: May 18, 2007	:	
Attorney Docket No. 1321.701 (NET).005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2010, to revive the above-identified application.

The petition is **DISMISSED as MOOT**.

The record shows that a Notice of Appeal was filed on December 21, 2009, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before February 21, 2010, or on or before July 21, 2010 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). Since petitioner may obtain an extension of time up to an including five (5) months, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $810.00 petition fee submitted will be applied towards the purchase of a four month extension of time. An additional $55.00 will be charged to the petitioner's deposit account to cover the fourth (4) month extension fee of $865.00.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2455 for further action as the nature of the case may require.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Copeland, et al. :
Application No. 11/750,869 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. 02103-663003

This is a decision on the petition under 37 CFR 1.137(a), filed December 30, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply to the final Office action mailed June 27, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was filed on October 31, 2008, with a request for an extension of time within the second month.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). It is noted, however, that the petition appears to have been filed prematurely as the timely response to the final Office action which was filed October 31, 2008, has not been considered by the examiner. Before the application can be deemed abandoned, the examiner must determine whether or not the October 31, 2008, response places the application in condition for allowance. If the response places the application in condition for allowance, the application is not abandoned and should proceed toward issuance. If the response does not place the application in condition for allowance, then the application is abandoned as of November 28, 2008. Petitioner should then file a petition under 37 CFR 1.137 to revive the application.

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

The application file is being directed to Technology Center GAU 2614 for a determination of whether the response filed October 31, 2008, places the application in condition for allowance.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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.

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MINNEAPOLIS MN 55440-1022

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Copeland, et al. :
Application No. 11/750,869 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. 02103-663003 :

This is a decision on the renewed petition under 37 CFR 1.137(a) filed February 24, 2009.

The renewed petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the final Office action mailed June 27, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). An amendment was filed on October 31, 2008, with a request for an extension of time within the second month. An amendment was also filed on December 30, 2008, with a Notice of Appeal in the alternative. A petition under 37 CFR 1.137(a) was first filed on December 30, 2008, and dismissed by a decision mailed January 20, 2009. By an Advisory Action mailed February 17, 2009, the examiner determined that the amendment filed December 30, 2008, did not place the application in condition for allowance. The Notice of Appeal is considered the response required by 37 CFR 1.137(a).

The petition fee of $540.00 will be charged to deposit account 06-1050.

37 CFR 1.137(a)(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 unavoidable. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(a)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The Notice of Appeal, filed December 30, 2008, and in duplicate on February 24, 2009, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the mail date of this decision.

The file is now being forwarded to Technology Center 2600, GAU 2614 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

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

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AUG 22 2008

In re Application of :
HALLAM, Thomas M. :
Application No. 11/750,900 : DECISION ON PETITION
Filed: May 18, 2007 : TO WITHDRAW
Attorney Docket No. **43373-0011** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 10, 2008.

The request is **APPROVED**.

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

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

The request to change the 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: **THOMAS M. HALLAM**
P.O. BOX 1674
HUNGINGTON, NY 11743

cc: **DON J. PELTO**
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON, DC 20005

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SEP 27 2007

OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

In re Application of	:	DECISION NOTING JOINDER OF
Abdulla, et al.	:	PREVIOUSLY NON-SIGNING
Application No.: 11/750,914	:	INVENTOR AND DISMISSING
Filed: May 18, 2007	:	PETITION UNDER 37 CFR 1.47(a)
Attorney Docket No.: NVDA/P001882	:	AS MOOT

A petition under 37 CFR 1.47(a) was filed on August 21, 2007 in order to permit filing of the above-identified patent application without the signature of one of the inventors. Before the petition was addressed, applicants filed a declaration in compliance with 37 CFR 1.63, executed by the previously non-signing joint inventor, Sameer Nanda.

In view of the joinder of the inventor, consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The $200.00 petition fee submitted on August 21, 2007 will be refunded to petitioners' deposit account shortly.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING JOINDER OF
Abdulla, et al.	:	PREVIOUSLY NON-SIGNING
Application No.: 11/750,919	:	INVENTOR AND DISMISSING
Filed: May 18, 2007	:	PETITION UNDER 37 CFR 1.47(a)
Attorney Docket No.: NVDA/P001883	:	AS MOOT

A petition under 37 CFR 1.47(a) was filed on August 21, 2007 in order to permit filing of the above-identified patent application without the signature of one of the inventors. Before the petition was addressed, applicants filed a declaration in compliance with 37 CFR 1.63, executed by the previously non-signing joint inventor, Sameer Nanda.

In view of the joinder of the inventor, consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The $200.00 petition fee submitted on August 21, 2007 will be refunded to petitioners' deposit account shortly.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 28 2009

YAMAHA HATSUDOKI KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
Suite 1200
Reston, VA 20191

In re application of	:	DECISION ON PETITION
Toshiyuki Hattori	:	FOR SECOND SUSPENSION
Application No. 11/750,922	:	OF ACTION UNDER
Filed: May 18, 2007	:	37 CFR 1.103 (a)
For: SMALL WATERCRAFT	:	

This is in reply to the Petition under 37 CFR 1.181 to Restart Time Period received in the Patent and Trademark Office on September 16, 2009.

The petition is **GRANTED**.

Petitioner asserts that in the Final rejection mailed September 9, 2009, the examiner cited and relied upon a reference to "Cassell", but did not list the patent or publication number in the Office action or cite the reference on the PTO-892 attached thereto.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply to run from the date the error is corrected, when an Office action contains some defect and the error is called to the attention of the Office within one month of the mail date of the action. If the error is brought to the attention of the Office greater than one month after the date of the Office action but before the expiration of the reply period, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. Any such reset period being at least one month. If any such error is not brought to the attention of the Office prior to the expiration of the response period, the period will not be restarted and any response would require the appropriate extension fee to be considered timely.

A review of the file record reveals that a final Office action was mailed to the address of record on September 9, 2009. The examiner rejected claim 18 as being unpatentable over Cassell in view of Camarota et al. The examiner failed to provide the patent or publication number to Cassell. Additionally, the PTO-892 attached thereto failed to cite the Cassell reference.

Accordingly, the petition is granted. Since the final Office action contains a defect and the error has been called to the attention of the Office within one month of the mail date of the action, the shortened statutory period for reply to the Final rejection previously mailed on September 9, 2009 is reset to expire three (3) months from the mailing date of this decision. Attached hereto is a PTO-892 citing U.S. Patent No. 6,772,706 to Cassell.

Any questions concerning this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.

Frederick Schmidt, Director
Technology Center 3600
(571) 272-5150

tpl: 09/28/09

Attachment : PTO-892

Notice of References Cited	Application/Control No. 11/750,922	Applicant(s)/Patent Under Reexamination HATTORI ET AL.	
	Examiner Ed Swinehart	Art Unit 3617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,772,706 B2	08-2004	Cassell, Shannon	114/362
	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.

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MERCHANT & GOULD, P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Jean R. SHERRAD :
Application No. 11/750,937 : DECISION ON PETITION
Filed: May 18, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 50159.0001US01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement made by registered attorney Mark R. Hennings, which will be treated as the result of the attorney having evidence that the applicant is at least 65 years of age. In the event that such evidence is not with the attorney, the Office should be notified immediately. 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.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MARK R. HENNINGS
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Jean R. Sherrard	:	DECISION ON PETITION
Application No. 11/750,937	:	TO WITHDRAW
Filed: May 18, 2007	:	FROM RECORD
Attorney Docket No. 008473.P001	:	

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 **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 Mark R. Hennings on behalf of all attorneys of record who are associated with customer No. 08791.

All attorneys/agents associated with the Customer Number 08791 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 at the address indicated below.

There is an outstanding Office action mailed January 29, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Jean R. Sherrard
14378 Sandy Hook Rd NE
Poulsbo WA 98370-7817

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IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of :
Honton, Sze Hung To :
Application No. 11/750,939 : DECISION ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. LSA20 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Seong Ho Yoon :
Application No. 11/750,941 :
Filed: May 22, 2007 :
Attorney Docket No. 12109.0093US01 :

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 May 18, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration 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 referred back to the Office of Initial Patent Examination processing. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of :

Gary Kremen, et al. :
Application No. 11/750,941 :
Filed: May 18, 2007 :
Attorney Docket No. 63194-8007.US01 :
:

CORRECTED DECISION
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 May 18, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration 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 3628 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,944	05/18/2007	Sang-Hoon Yim	58764/P849	1053

EXAMINER	
SHALWALA, BIPIN H	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
11/04/2009	PAPER

7590 11/04/2009

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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

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OFFICE OF PETITIONS

In re Application of :
Stuttard et al : DECISION REFUSING STATUS
Application No. 11/750,951 : UNDER 37 CFR 1.47(a)
Filed: May 18, 2007 :
Attorney Docket No. HASE0014 :

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

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Atkin, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Atkin. Petitioner should state whether he has access to inventor Atkin's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided,

petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Atkin's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

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

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of
Stuttard et al.
Application No. 11/750,951
Filed: May 18, 2007
Attorney Docket No. HASE0014

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 CFR 1.47(a)

Papers filed on December 4, 2007 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed November 20, 2007, included a Declaration signed by a previously non-signing inventor, Atkin, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

This application is being referred to the Office of Patent Application Processing.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 1 1 2010

Zeltiq Aesthetics, Inc.
Perkins Coie LLP
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of	:	
Jesse N. ROSEN et al.	:	
Application No. 11/750,953	:	DECISION ON PETITION
Filed: May 18, 2007	:	TO MAKE SPECIAL
Attorney Docket No. **579688017US**	:	37 CFR 1.102
	:	

This is a decision on the petition under 37 CFR 1.102 filed December 23, 2009, the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009, in which the applicant has established small entity status under 37 CFR 1.27;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code, and

b) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Anthony Knight at 571-272-3687.

All other inquires 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 3771 for action on the merits commensurate with this decision.

Anthony Knight
Supervisory 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

TREGO, HINES
& LADENHEIM, PLLC
9300 HARRIS CORNERS PARKWAY
SUITE 210
CHARLOTTE NC 28269-3797

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DEC 08 2009

OFFICE OF PETITIONS

In re Application of :
Burgess, et al. :
Application No. 11/750,954 : DECISION
Filed: 18 May, 2007 :
Attorney Docket No. 1027/2US :

This is a decision on the petition filed on 24 August, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 9 January, 2009, with reply due absent an extension of time on or before 9 February, 2009.

The application went abandoned by operation of law after midnight 9 February, 2009.

The Office mailed the Notice of Abandonment 21 August, 2009.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Election and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3774 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Jong Hwan Kim	: DECISION ON REQUEST FOR
Patent Number	: 7572653	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/750,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **74** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Stuttard, Williams, O'Dea, Faulds, Rhodes, Cameron, Atkin, :
Winser, David, McConnell, Day, and Greer :
Application No.: 11/750,968 : DECISION ACCORDING
Filed: May 18, 2007 : RULE 47(a) STATUS
Attorney Docket No: HASE0015 :
For: PARALLEL DATA PROCESSING APPARATUS

This is in response to the petition under 37 CFR 1.47(a), filed August 15, 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 May 18, 2007, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 13, 2007, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on August 15, 2007.

Petitioner has shown that inventor Atkin cannot be located after a diligent effort to join the filing of the above-identified application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/750,972	05/18/2007	ABRAHAM PENNER	REM-030 US

CONFIRMATION NO.
1109

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

Date Mailed: November 21, 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 Data Management, Publication Division, 703-605-4283.

Kaletus King
Office of Data Management
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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/750,972	05/18/2007	A. Penner	REM-030 US

CONFIRMATION NO.
1109

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

Date Mailed: November 29, 2007

Response to Request for Reconsideration of Petition for Express Abandonment to Avoid Publication

This is in response to your request for reconsideration of the petition for express abandonment to avoid publication filed on November 26, 2007.

The request is dismissed.

37 CFR 1.138 and MPEP 1125 provide that the petition under 1.138(c) must be filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process, and applicants should expect that the petition will not be granted and the application will be published in regular course unless the petition is received by the appropriate officials more than 4 weeks prior to the projected date of publication.

MPEP 1120 (subsection IV) provides that the Office will provide applicants the projected publication date of the application on a filing receipt, and applicants should carefully and promptly review their filing receipts. The filing receipt mailed on June 22, 2007 showed a projected publication date of November 29, 2007.

Telephone inquiries regarding this correspondence may be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO:	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,972	05/18/2007	Abraham Penner	REM-030 US	1109

EXAMINER

7590 12/07/2007

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
12/07/2007	PAPER

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is 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 granted.

The express abandonment is recognized and the application has been withdrawn from publication.

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

Patent Publication Branch
Office of Data Management

04FC:1202 -1250.00 OP
-1250.00 OP

02 FC:1111 -500.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/750,972	05/18/2007	Abraham Penner	REM-030 US	1109

23410 7590 12/07/2007

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

EXAMINER	
KOONTZ, TAMMY J	
ART UNIT	PAPER NUMBER
3974	

MAIL DATE	DELIVERY MODE
12/07/2007	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	11/750,972	PENNER, ABRAHAM	
	Examiner	Art Unit	
	Not Assigned	None	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

Rick Clemons □□Administrative Assistant□□Art Unit: 3900

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/750,972	05/18/07	Penner	REM-030 US

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

DATE MAILED: December 14, 2007

WITHDRAWAL OF A NOTICE OF ABANDONMENT

The Office sent the Notice of Abandonment for the above-identified application mailed on December 7, 2007, in error. Accordingly, the Notice of Abandonment is hereby withdrawn.

The Office regrets any inconvenience the error may have caused. Inquiries regarding this communication should be directed to the Office of Data Management at 571-272-4200.

Kimberly Terrell
Manager
Publication Branch

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
11/750,972	05/18/2007	A. Penner	REM-030 US

CONFIRMATION NO.
1109

Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

Date Mailed: December 14, 2007

Response to Request for Reconsideration of Petition for Express Abandonment to Avoid Publication

This is in response to your request for reconsideration of the petition for express abandonment to avoid publication filed on November 26, 2007.

The request is dismissed.

37 CFR 1.138 and MPEP 1125 provide that the petition under 1.138(c) must be filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process, and applicants should expect that the petition will not be granted and the application will be published in regular course unless the petition is received by the appropriate officials more than 4 weeks prior to the projected date of publication.

MPEP 1120 (subsection IV) provides that the Office will provide applicants the projected publication date of the application on a filing receipt, and applicants should carefully and promptly review their filing receipts. The filing receipt mailed on June 22, 2007 showed a projected publication date of November 29, 2007.

The decision mailed on December 7, 2007, granting the petition under 37 CFR 1.138(c) is hereby vacated because the petition under 37 CFR 1.138(c) for express abandonment to avoid publication was granted in error.

Telephone inquiries regarding this correspondence may be directed to The Office of Data Management at 571-272-4200.

Kimberly Terrell
Manager
Office of Data Management

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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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Abdullah et al.	:	
Application No. 11/750984	:	DECISION NOTING
Filing or 371(c) Date: 05/18/2007	:	JOINDER OF
Title of Invention:	:	INVENTORS
INTELLIGENT LOAD	:	
BALANCING AND FAILOVER	:	
OF NETWORK TRAFFIC	:	

This is in response to the Petition Under 37 CFR §1.47(a), filed August 21, 2007, and on the "Response to Notice to File Missing Parts," filed September 19, 2007, noting the joinder of the inventor and requesting withdrawal of the petition. The delay in treating this petition is regretted.

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[1]. 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 Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] The petition has been entered and docketed and may not be withdrawn. The petition fee has been charged to Petitioner's deposit account.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Abdullah et al.	:	
Application No. 11/750987	:	DECISION NOTING
Filing or 371(c) Date: 05/18/2007	:	JOINDER OF
Title of Invention:	:	INVENTORS
INTELLIGENT LOAD	:	
BALANCING AND FAILOVER	:	
OF NETWORK TRAFFIC	:	

This is in response to the Petition Under 37 CFR §1.47(a), filed August 21, 2007, and on the "Response to Notice to File Missing Parts," filed September 19, 2007, noting the joinder of the inventor and requesting withdrawal of the petition. The delay in treating this petition is regretted.

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[1]. 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 Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] The petition has been entered and docketed and may not be withdrawn. The extension of time fee has been refunded to Petitioner's deposit account.

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

NOV 13 2008

KD Secure
Attn: Daniar Hussain
101 Main Street, 18th Floor
Cambridge, MA 02142

In re application of
Robert M. Zubrin et al.
Application No. 11/751,011
Filed: May 19, 2007
For: APPARATUS, METHODS AND SYSTEM FOR EXTRACTING PETROLEUM USING A PORTABLE COAL REFORMER

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

This is a decision on the petition filed on November 6, 2008 to make the above-identified application special for Energy under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination", 71 Fed. Reg. 36,323 (Jun. 26, 2006)

The relevant portions of the Accelerated Examination Notice are as follows:

Supplementary Information:

...

The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application.

The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the PPH pilot program. Specifically, other petitions to make special (*i.e.*, petitions based on: manufacture, infringement, environmental quality, **energy**, recombinant DNA, superconductivity materials, HIV/AIDS and cancer, countering terrorism, and biotechnology applications filed by small entities (*see* MPEP § 708.02)) will be processed and

examined using the revised procedure for accelerated examination. Thus, all petitions to make special, except those based on applicant's health or age or the PPH pilot program, will be required to comply with the requirements of petitions to make special under the accelerated examination program that are set forth in this notice.

Any petition to make special, other than those based on applicant's health or age or the PPH pilot program, filed on or after the effective date must meet the requirements set forth in this notice.

A petition to make special filed after the effective date will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in this notice.

...

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 petition fails to comply with conditions II.1 above.

The petition was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on November 6, 2008, the petition must be considered under the new guidelines and thus is properly **DENIED**.

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. Further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 11/10/08

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P.O. Box 1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of
Kwon HONG, et al.
Application No. 11/751,013
Filed: May 19, 2007
Attorney Docket No. **00939C-101310US**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 5, 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 April 14, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Robert M. Zubrin, et al.
Serial No.	:	11/751,028
For	:	PORTABLE AND MODULAR SYSTEM FOR EXTRACTING PETROLEUM AND GENERATING POWER
Filed	:	May 20, 2007
Examiner	:	HARCOURT, BRAD
Art Unit	:	3676
Confirmation No.	:	1236

Pioneer Energy, Inc.
11111 West 8th Avenue
Lakewood, CO 80215

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(C)(2)(II)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.102(c)(2)(ii), Applicants hereby Petition to Make Special the above-identified patent application.

Applicant's invention materially contributes to the energy needs of the United States. MPEP Section 708.02(VI) states:

> *"The U.S. Patent and Trademark Office will, on petition, accord "special" status to all patent applications for inventions which materially contribute to (A) the discovery or development of energy resources , or ..."*

Since the instant invention materially contributes to the discovery or development of energy resources (see Paragraphs 0002 and 0012 of the Specification, and in general the entire Specification), Applicants are entitled to a no-fee special status and accelerated examination of the present application. Applicant's invention allows the extraction of previously unrecovered

PAGE 3/10 * RCVD AT 11/6/2008 5:35:53 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/32 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-06

domestic and international oil reserves from "depleted" or "near-depleted" oil reservoirs through an innovative fuel-reforming apparatus and an innovative method of use.

This Petition to Make Special based on Energy requires no fee, as set forth in 37 C.F.R. §1.102(c).

Applicants respectfully request the prompt grant of this Petition to Make Special, and accelerated examination on the merits of the present application.

No fee is believed necessary for the filing of this Petition to Make Special, but if any fees are required, the Commissioner is hereby authorized to debit any insufficient fees, and credit any overpayments, to Deposit Account No. 50-4175

Respectfully submitted,

Pioneer Energy, Inc.

for Applicants

By: ____/Daniar Hussain/_____
Daniar Hussain
Registration No. 59,026
(617) 899-9709

PAGE 4/10 * RCVD AT 11/6/2008 5:35:53 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/32 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-06

UNITED STATES PATENT AND TRADEMARK OFFICE

11 MAR 2009

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Alexandria, VA 22313-1450
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56374
EAGLE IP LIMITED
22/F., KWAI HUNG HOLDINGS CENTRE
89 Kings Road
North Point HK
Hong Kong

In re Application of
CHENG *et al*
Application No.: 11/751,050
Filing Date: May 21, 2007
Attorney Docket No.: B001.003.NPEUS
For: USE OF ARGINASE IN COMBINATION WITH 5FU AND OTHER COMPOUNDS FOR TREATMENT OF HUMAN MALIGNANCIES

DECISION

This decision is in response to the "Petition Under 37 CFR 1.182" filed January 7, 2009.

BACKGROUND

On May 21, 2007, applicants filed papers electronically with the United States Patent and Trademark Office. Applicants indicated that the filing was a "Utility Application under 35 USC 111(a)" in the USPTO EFS-Web system.

On May 27, 2008, a Notice to File Missing Parts of Nonprovisional Application and a Filing Receipt were mailed.

On September 1, 2008, applicants filed a "Request for a Corrected Filing Receipt" requesting that the above-captioned application be considered as a national stage application under 35 U.S.C. 371.

On September 11, 2008, a Response to Request for Corrected Filing Receipt was mailed stating that the Office was unable to comply with applicants' request as USPTO records show that the above-captioned application was filed under 35 U.S.C. 111(a).

On January 7, 2009, applicants filed the subject petition to convert the filing to a national stage filing under 35 U.S.C. 371.

DISCUSSION

Applicants state that the original papers filed show that "Applicants clearly intend

to file the application as a 371 application" and have filed the subject petition to convert the application.

Any intended filing of an international application as a national stage application must clearly be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a). 37 CFR 1.495(g). In addition, section 1893.03(a) of the Manual of Patent Examining Procedure states, in part:

> In accordance with the notice at 1077 O.G. 13 (14 April 1987) . . . if there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

A review of the subject application shows that applicants filed the application using the USPTO EFS-Wes system as a "Utility under 35 USC 111(a)." This is a clear conflicting instruction; thus, the application was properly treated as a filing under 35 U.S.C. 111(a) by the Office. Another option in the USPTO EFS-Web system is to file as a "US National Stage under 35 USC 371."

Nonetheless, applicants request that the filing be corrected to a U.S. National Stage Application filing under 35 U.S.C. 371. Applicants submitted evidence showing that the papers filed May 21, 2007 was intended to be a national stage application of PCT/CN2005/002001. This is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been paid.

U.S. Statutes and Regulations do not make specific provision for conversion of the application to a national phase and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the petition, applicants have not made such a showing.

CONCLUSION

As discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being returned to Group Art Unit 1643 for continued

processing as a filing under 35 U.S.C. 111(a).

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

05 JUN 2009

Commissioner for Patents
United States Patent and Trademark Office
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56374
EAGLE IP LIMITED
22/F., KWAI HUNG HOLDINGS CENTRE
89 Kings Road
North Point HK
Hong Kong

In re Application of
CHENG *et al*
Application No.: 11/751,050
Filing Date: May 21, 2007
Attorney Docket No.: B001.003.NPEUS
For: USE OF ARGINASE IN COMBINATION WITH 5FU AND OTHER COMPOUNDS FOR TREATMENT OF HUMAN MALIGNANCIES

DECISION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 16, 2009 which is 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, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet.

The petition is hereby **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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.

Item (3) is not satisfied as the statement provided in the instant petition is insufficient. A revised statement indicating 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, is required.

Applicant is further advised that the ADS does not bear a signature as required in accordance with 37 CFR 1.33 and 10.18. Applicant is encouraged to use the most recent version of the ADS which includes a signature block. It can be obtained at: http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf .

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed 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 questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

30 OCT 2009

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56374
EAGLE IP LIMITED
22/F., KWAI HUNG HOLDINGS CENTRE
89 Kings Road
North Point HK
Hong Kong

In re Application of
CHENG *et al*
Application No.: 11/751,050
Filing Date: May 21, 2007
Attorney Docket No.: B001.003.NPEUS
For: USE OF ARGINASE IN COMBINATION WITH 5FU AND OTHER COMPOUNDS FOR TREATMENT OF HUMAN MALIGNANCIES

DECISION

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 4, 2009 to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet.

The renewed petition is hereby **GRANTED** as follows:

This is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6). The nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications are submitted after 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.

Items (1) and (2) were previously submitted. Regarding item (3), applicants provided an acceptable 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. Applicants also provided a signed ADS with the subject petition.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment filed 16 April 2009, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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WARREN A. SKLAR 9SOER0
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND OH 44115

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JUN 26 2009

OFFICE OF PETITIONS

In re Application of :
Kretz et al. :
Application No. 11/751,071 : ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. PS07 0260US1 :

This is a decision on the petition under 37 CFR 1.182, filed, May 20, 2009, to change the name of inventor "Fredrik M.D. Andersson" to – Fredrik M.D. Ekstrand –.

The petition is **DISMISSED**.

The petition under 37 CFR 1.182 to change an inventor's name must include (1) an appropriate petition fee, (2) a statement signed by the inventor setting forth both names and (3) the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner has failed to comply with item (2). A statement signed by the inventor must be submitted before the petition to correct the inventor's name can be granted.

Additionally, the requisite $400.00 petition fee will be charged to petitioner's deposit account as authorized on May 20, 2009.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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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WARREN A. SKLAR (SOER)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND OH 44115

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Kretz et al.	:	
Application No. 11/751,071	:	ON PETITION
Filed: May 21, 2007	:	
Attorney Docket No. PS07 0260US1	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed July 16, 2009, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Fredrik M.D. ANDERSSON to Fredrik M.D. EKSTRAND.

A Corrected Filing Receipt, reflecting the above name change, is enclosed.

This matter is being directed to Technology Center AU 2862 for further examination on the merits.

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

Liana Walsh

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: 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
11/751,071	05/21/2007	2862	1000	PS07 0260US1	20	3

CONFIRMATION NO. 1319

CORRECTED FILING RECEIPT

58342
WARREN A. SKLAR (SOER)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND, OH 44115

Date Mailed: 08/18/2009

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)

Martin Kretz, Lund, SWEDEN;
Fredrik Ekstrand, Lund, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 58342

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/751,071**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD OF PHOTOGRAPHY USING DESIRABLE FEATURE RECOGNITION

Preliminary Class

396

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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Alexandria, Virginia 22313-1450
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WARREN A. SKLAR (SOER)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/21/2010

Applicant	: Martin Kretz	: DECISION ON REQUEST FOR
Patent Number	: 7664389	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,071	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VINCENT PATENT AGENCY
11-300 EARL GREY DRIVE, SUITE 202
KANATA ON K2T 1C1 CA CANADA

MAILED

APR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Dunphy et al.	:	DECISION ON PETITION
Application No. 11/751,102	:	TO WITHDRAW
Filed: May 21, 2007	:	FROM RECORD
Attorney Docket: 10421	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2010.

The request is **APPROVED**.

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

The request was signed by Robert A. Vincent, on behalf of all practitioners of record associated with Customer Number 58166.

Customer Number 58166 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There 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: DAVID DUNPHY
319 TUNIS STREET
INGERSOL N5C 1W9 CANADA

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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
11/751,102	05/21/2007	David Dunphy	10421

CONFIRMATION NO. 1384

POWER OF ATTORNEY NOTICE

58166
VINCENT PATENT AGENCY
11-300 EARL GREY DRIVE, SUITE 202
KANATA, ON K2T 1C1
CANADA

Date Mailed: 04/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/28/2010.

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

/atkelley/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,169	05/21/2007	Weiqiong Li	501/1/008	1518

7590 04/07/2010

RICHARD M. GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

EXAMINER
NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
3657	

MAIL DATE	DELIVERY MODE
04/07/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Date
04/07/2010 [illegible]

Credit Card Refund Totals $[illegible]

[illegible]

Adjustment date: 04/07/2010 [illegible]
[illegible] 00005468 [illegible]
02 Fee2111 -250.00 CP

FORM PET651G (Rev. 08/07)

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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

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AUG 21 2009

OFFICE OF PETITIONS

In re Application of
Webster Hughes et al
Application No. 11/751,188
Filed: May 21, 2007
Attorney Docket No. 701/3

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 2, 2009.

The request is **APPROVED**.

The request was signed by Matthew B. Dernier on behalf of the practitioners of record associated with Customer No. 27538.

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

There is an outstanding Office action mailed April 2, 2009 that requires a reply from the applicant.

All future correspondence will be directed to inventor Webster Hughes 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: Webster Hughes
4807 Pellyn Farm Court
Charlotte, NC 28226

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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	: Monika C. Hill	: DECISION ON REQUEST FOR
Patent Number	: 7577534	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,195	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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 PTA days determined by the recalculation.

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

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

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

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

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APR 10 2008

OFFICE OF PETITIONS

Groover & Associates
Box 802889
Dallas, TX 75380-2889

In re Application of
Shueng Han Gary Chan et al.
Application No. 11/751,198
Filed: May 21, 2007
Attorney Docket No. TTC-298

DECISION ON REQUESTS TO WITHDRAW FROM RECORD

This is a decision on the requests to withdraw as attorney or agent under 37 C.F.R. § 1.36(b), filed February 27, 2008.

The requests are **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robert O. Groover II and all attorneys associated with Customer Number 29106 has been revoked by the assignee of the patent application on March 29, 2008. Accordingly, the requests to withdraw under 37 C.F.R. § 1.36(b) are 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: Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suite 1900
1211 SW Fifth Avenue
Portland, OR 97204

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
11/751,198	05/21/2007	Shueng Han Gary Chan	TTC-298

CONFIRMATION NO. 1566

POWER OF ATTORNEY NOTICE

29106
GROOVER & Associates
BOX 802889
DALLAS, TX 75380-2889

Date Mailed: 04/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2008.

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

/ddinh/

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

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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Hirokazu TAKASHIMA	: DECISION ON REQUEST FOR
Patent Number	: 7616427	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **399** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Yutaka Kawakami	: DECISION ON REQUEST FOR
Patent Number	: 7612044	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,233	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/11/10

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11751233 Patent No.: 7612044

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

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.

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

Comments: _____

LARRY R. HELMS, PH.D
SUPERVISORY PATENT EXAMINER

SPE 1643 **Art Unit**

PAGE 1/1 * RCVD AT 5/12/2010 6:39:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/7 * DNIS:2709990 * CSID:5712730200 * DURATION (mm-ss):00-32

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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of :
Norman Godin :
Application No. 11/751,260 : DECISION ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. BIO0011-100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed June 7, 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 August 8, 2007. A Notice of Abandonment was mailed on February 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the replacement drawings are accepted as being unintentionally delayed.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received March 24, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Foley Hoag, LLP
Patent Group
World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Yamming Wang	:	
Application No. 11/751,273	:	DECISION ON PETITION
Filed: May 21, 2007	:	TO WITHDRAW
Attorney Docket No. NPZ-002.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2008.

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

A review of the file record indicates that the power of attorney to Foley Hoag, LLP has been revoked by the assignee of the patent application on April 21, 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: **Yamming Wang**
203 Summer Street
Malden, MA 02148

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glm

6-28-07

In re application of :
Effler et al. :
Serial No. 11/751,301 : DECISION ON PETITION
Filed: May 21, 2007 : TO MAKE SPECIAL
For: PROCESS FOR WHISKEY RECOVERY :

This is a decision on the petition filed on May 21, 2007 to make the above-identified application special under the accelerated examination program.

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 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 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).

DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-4) are considered to have been met. However, the petition fails to comply with condition II, subsections 5 and 6.

First, it appears that the search is incomplete. Note that a search in Class 426, Subclass 431 (extraction using water) is required.

Also, the instant application claims the benefit of provisional application 60/850,673. According to section II, subsection 6.5 above, the support document must include a showing of where each limitation of the claims finds support in the provisional application. Such a showing is not present in the original support document.

Finally, the IDS includes a description of a prior art process used at Brown-Forman. While not a document, the described process constitutes a 'reference' in the sense of apparently being a piece of prior art. Thus the support document should address this reference as required by subsections 6.2 and 6.3 above, by identifying the features of the claims disclosed by this reference and by providing a detailed explanation of how the claims are patentable over the reference. The support document must also identify this reference if it may be disqualified under 35 USC 103(c), per subsection 6.6 above.

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

For the above-stated reasons, the petition is dismissed. The application will therefore be taken up by the examiner 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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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glm

8-15-07

In re application of
Effler et al.
Serial No. 11/751,301
Filed: May 21, 2007
For: IMPROVED PROCESS FOR WHISKEY RECOVERY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the REQUEST FOR RECONSIDERATION OF DECISION DISMISSING PETITION TO MAKE SPECIAL UNDER ACCELERATED EXAMINATION filed on July 27, 2007 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

As the previously noted defects have been corrected by the request for reconsideration and accompanying documents, 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 CFR 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 CFR 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 CFR 1.181, 182 or 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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,347	05/21/2007	Leslie Lindenstraus	1640-41	1836

73609 7590 04/22/2009

Leviton Manufacturing Company Incorporated (CDFS)
c/o Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Rd. Ste. 420
Melville, NY 11747

EXAMINER	
ESTRADA, ANGEL R	

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
04/22/2009	PAPER

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

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

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In re Application of LINDENSTRAUS ET AL.
Appl. No.: 11/751,347
Filed: May 21, 2007
For: RECEPTACLE WITH SHAPED SURFACE

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

John W. Cabeca
Director
Patent Examining Technology Center 2800

Leviton Manufacturing Company Incorporated (CDFS)
c/o Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Rd. Ste. 420
Melville, NY 11747

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OFFICE OF PETITIONS

In re Application of	:	
Lindenstraus et al.	:	
Application No. 11/751,347	:	DECISION ON PETITION
Filed: May 21, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1640-41	:	
	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 29, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed nonprovisional applications.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be

> disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, since the proposed nonprovisional applications were not in the original specification, the incorporation by reference statement cannot be used in reference to the applications.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Additionally, petitioner has requested benefit of Application No. 10/236,198 filed on September 6, 2002. However, a Notice of Abandonment was mailed December 3, 2003 in this application. Therefore, since the instant application was filed on May 21, 2007, no copendency exists between these two applications.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of	:	
Lindenstraus et al.	:	
Application No. 11/751,347	:	DECISION ON PETITION
Filed: May 21, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1640-41	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate

application. MPEP Section 201.06(d). Petition should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

It appears that the chain is missing between Application No. 10/236,406 and 10/236,198. Petitioner contends that 10/236,198 is a CIP of 10/236,406. A review of USPTO records does not appear to support this claim.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] identifying a proper nonprovisional application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of
Lindenstraus et al.
Application No. 11/751,347
Filed: May 21, 2007
Attorney Docket No. 1640-41

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the second renewed petition under 37 CFR 1.78(a)(3), filed March 26, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate

application. MPEP Section 201.06(d). Petitioner should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

It appears that the chain is missing between Application No. 10/236,406 and 10/236,198. Petitioner contends that 10/236,198 is a CIP of 10/236,406. A review of USPTO records does not appear to support this claim.

Petitioner requests consideration of "this renewed petition following consideration of the petition filed in the '406 patent application." This request is accepted and in light of the 10/236,406 decision the instant application is once again dismissed. A Notice of Abandonment for Application 10/236,406 was mailed November 16, 2005. As required by 37 CFR 1.78(a)(2)(ii), the reference required by 35 U.S.C. 120 must have been submitted during the pendency of the 10/236,406 application. Therefore, since this was not the case in the 10/236,406 application the petition was dismissed.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] identifying a proper nonprovisional application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is required.

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

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Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/22/2010

Applicant	: Patrick O. Tennican	: DECISION ON REQUEST FOR
Patent Number	: 7635344	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 DEPARTMENT
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS, MN 55402-1498

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OFFICE OF PETITIONS

In re Application of

Dharma R. KODALI
Application No. 11/751,432
Filed: May 21, 2007
Attorney Docket No. **189019/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 April 3, 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 Wendy N. Peterson 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 at the address below until otherwise properly notified by the applicant.

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

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

cc: **DHARMA R. KODALI, PH.D.**
710 OLIVE LANE N.
PLYMOUTH, MN 55447-4203

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 June 11, 2009

Patent No. :7532896
Inventor(s) :Robert J. Friday, et al
Issued :May 12, 2009
Title :WIRELESS NODE LOCATION MECHANISM USING ANTENNA PATTERN
:DIVERSITY TO ENHANCE ACCURACY OF LOCATION

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.

Respecting the error in the omission of related Application Data , the first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120. Since the first sentence of the specification does not refer to the additional information as reflected on applicants request , neither any amendment thereto, a certificate of correction is not warranted here under Rule 1.322 .

In view of the forgoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at 703-756-1541.

Ms. Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
703-756-1580 or 703-756-1541

Baker Botts, LLP
2001 Ross Avenue, Ste 600
Dallas Texas 75201-2980

/arg

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

Mail Date: 04/21/2010

Applicant	: Jingcheng Zhuang	: DECISION ON REQUEST FOR
Patent Number	: 7633322	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, Virginia 22313-1450
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YAMAHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Hitoshi Muramatsu	: DECISION ON REQUEST FOR
Patent Number	: 7669576	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,466	: OF WYETH
Filed	: 05/21/2007	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

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AUG 04 2008

In re Application of
Gorokhov et al.
Application No. 11/751,467
Filed: May 21, 2007
Attorney Docket No. 061333

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 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 June 7, 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 timely obtained. Accordingly, the application became abandoned on August 8, 2007. A Notice of Abandonment was mailed February 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 signed Oath/Declaration and the $130.00 late surcharge, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,230.00, five month extension of time fee submitted with the petition on March 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

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

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of :
Chik Yung Won, et. al. :
Application No. 11/751,470 : ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. 09945-043001/DP-32 :
US :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 16, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on June 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed Oath/Declaration with the $130 surcharge and an amendment with a substitute specification; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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THE RAFFERTY PATENT LAW FIRM
1952 Gallows Road
Suite 200
Vienna, VA 22182-3823

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OCT 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Chang Hwa Jeong, et. al. :
Application No. 11/751,476 : DECISION ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. P10040US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 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 Rejection mailed, December 10, 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 March 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

In addition to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), the United States Patent and Trademark Office received a payment of $525 for a three month extension of time on August 5, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,519	05/21/2007	Russell John Haines	309113US2CRL CONT	2127

7590 07/20/2009

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

EXAMINER	
CROSLAND, DONNIE L	

ART UNIT	PAPER NUMBER
2612	

NOTIFICATION DATE	DELIVERY MODE
07/20/2009	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

Refund Ref:
07/17/2009 0030072355

Credit Card Refund Total: $500.00

An Exp..: XXXXXXXXXX1601

Adjustment date: 07/17/2009 NFARMER
05/22/2007 INTEFSW 00000723 11751519
02 FC:1111 -500.00 OP

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

Mail Date: 07/02/2010

Applicant	: Gregory Joseph Gisler	: DECISION ON REQUEST FOR
Patent Number	: 7641379	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/751,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 07 2007

TECHNOLOGY CENTER 3600

Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re application of
Yu Cao
Application No. 11/751522
Filed: May 21, 2007
For: METHODS AND APPARATUS FOR FRESHNESS AND COMPLETENESS OF INFORMATION

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

This is a decision on the petition filed on May 21, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.2, II.6.2, II.6.3, and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, with respect to the classification search, the classification search needs to include a search of 705/26 (where the invention is classified) and 705/27 and 400. It is not clear if Applicant intends for "707/*" and "705/*" to cover every document in each of these classes. Further, the search logic provided with respect to the search performed in Delphion does not encompass all of the features of both the independent and dependent claims. For example, section 9(c) of the Support Document states as its explanation of claim patentability that none of the references teach or suggest allowing data providers to update their data according to a fee schedule, as recited in claim 1 of the application. However, looking at the text searches performed, this concept is not adequately searched as none of the search logic includes terms such as fees, fee schedule, and data update, along with other concepts of the independent claim, such as differential updating, publishing, data providers, or publications. The dependent claims add additional features such as prices, crawling, delays, and price comparison that were also not searched. Further, Applicant has overly limited the searches by limiting the text searches to the title, abstract, and claims and to specific class/subclass combinations and patent numbers. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:

((publish$4 or publication$4) same (site$4 or website$2 or web$6)) and ((fee$4 or cost$4 or pric$4) same updat$4) and (crawl$5) and (pric$4 near4 compar$7)

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example and a starting point for applicant's assistance.

Also with respect to II.5.2, It does not appear that any search of Non-Patent Literature (NPL) has been made. The preexamination search must involve a search of relevant NPL. The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm. Thus, the NPL searches here should at least include the databases as ABI/INFORM, Business and Industry TM, Gale Group Computer Database TM, Internet and Personal Computing Abstracts, and Journal of Commerce, which are directly related to on-line commerce and commercial endeavors.

As to condition II.6.2, there currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations (or portions thereof) are disclosed in each of the

references. Although a reference is provided which appear to disclose claimed limitations, where in the references these disclosures reside are not clear. Providing locations such as "the '272 patent contemplates" and "satisfied" by the reference are insufficient to establish where in the reference the limitation (or portion thereof) is taught. Specific locations must be made clear.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references. In section 9(c) of the current Support Document, it is identified that none of the prior art references teach or suggest "allowing data providers to update their data according to a fee schedule. However, this is not sufficient because the explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. Section 9(c) of the current Support Document does not reference any specific claim numbers when discussing the patentability of the claimed invention. It does not specifically reference independent claim 1, nor does it specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or that each of the dependent claims are not separately patentable. Therefore, the detailed explanation of claim patentability is not sufficient.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is sufficient. However, similar support (if any) for the claimed invention must additionally be shown in any parent application upon which priority is claimed under 35 USC 119. Specifically, for provisional application 60/910800, a listing of where the limitations of the claims find support is necessary in order to allow the examiner to determine the effective filing dates of the various claims.

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.

Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. No extension of time under 37 CFR 1.136(a) will be granted. 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 07/03/07

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NOV 19 2007

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Fish & Associates, P.C.
2603 Main Street, Suite 1050
Irvine, California 92614-6232

In re application of
Yu Cao
Application No. 11/751,522
Filed: May 21, 2007
For: METHODS AND APPARATUS FOR FRESHNESS AND COMPLETENESS OF INFORMATION

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

This is a decision on the renewed petition filed on September 7, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

A petition to make special was filed in the above-identified application under 37 CFR 1.102(d) on May 21, 2007. The petition was dismissed in a decision mailed August 7, 2007 wherein a non-extendible period of 1(one) month or 30 (thirty) days, whichever was longer, was set to request reconsideration.

The reasons for the dismissal included a finding of inadequate search and inadequate listing of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference.

Specifically, with respect to the search, the search was deemed to not have provided an adequate classification search, deemed to overly limit the text searches and deemed to not provide a Non-Patent Literature (NPL search). As was pointed out in the previous decision:

> Specifically, with the respect to the classification search, in addition to areas already searched, the search needs to include a search of 705/26 (where the invention is classified) and 705/27 and 400.
>
> Applicant has overly limited the searches by limiting the text searches to the title, abstract, and claims and to specific class/subclass combinations and patent numbers.
>
> Also with respect to II.5.2, it does not appear that any search of Non-Patent Literature (NPL) has been made. The preexamination search must involve a search of relevant NPL. The USPTO website has search templates that are

broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm. Thus, the NPL searches here should at least include the databases as ABI/INFORM, Business and Industry TM, Gale Group Computer Database TM, Internet and Personal Computing Abstracts, and Journal of Commerce, which are directly related to on-line commerce and commercial endeavors.

Regarding the classification search deficiency, while the search has been updated, a classification search in the required class/subclass does not appear to have been performed as required. In the Request for Reconsideration accompanying the renewed petition, applicant states that "although those specific classes/subclasses were not expressly cited as having been searched, the Office should note that the broadest keyword searches all include a class designation of '705/*'", which applicant asserts "includes those subclasses". However, MPEP 719.05 defines a classification search as a complete search of **all** the documents in a particular subclass, whether filed by U.S. or IPC classification, **which is not limited by any text query or other means**. Thus, while the search has been updated, it appears that an appropriate classification search in the class/subclass combinations where the invention is classified still has not been performed as required.

Regarding the text search, while applicant removed the title, abstract, and claim limitations from the search strategy, the updated text search includes class/subclass limitation in each of the search strategies. Thus, applicant has still overly limited the text search, especially as to the broadest reasonable interpretation of the claims. Applicant states in the Request for Reconsideration accompanying the renewed petition that the broadest keyword searches all include a class designation. Thus, no text searches have been performed without a class/subclass limitation, thereby, overly limiting all of the text searches.

With respect to the Non-Patent Literature (NPL) search, it appears that Google is the only Non-Patent Literature (NPL) listed in the petition as being searched. While this is a sufficient Internet Search tool to utilize, it appears that applicant has not searched other NPL Resources, such as those listed at the USPTO website as required. It does not appear that applicant performed NPL searches in any of the databases directly related to on-line commerce and commercial endeavors as required, for example, ABI/INFORM, Business and Industry TM, Gale Group Computer Database TM, Internet and Personal Computing Abstracts, and Journal of Commerce. Furthermore, with respect to the one Non-Patent Literature (NPL) search performed in Google, the search strategy does not appear to be a strategy used in Google, i.e., ("L1 and (information retrieval)".

With respect to condition II.6.2, it was determined that there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references. As pointed out in the previous decision:

> As to condition II.6.2, there currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims that are disclosed in each of the cited references specifying where each of the limitations (or portions thereof) are disclosed in each of the

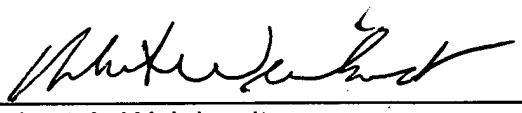
references. Although a reference is provided which appears to disclose certain claimed limitations, wherein the references these disclosures reside are not clear. Providing locations such as "the '272 patent contemplates" and "satisfied" by the reference are insufficient to establish where in the reference the limitation (or portion thereof) is taught. Specific locations must be made clear.

Regarding this deficiency, as pointed out in the previous decision, while a reference is provided which appears to disclose claimed limitations, applicant did not point out where in the reference these disclosures reside. As stated previously, providing "the 272 patent contemplates" and "satisfied" by the limitations as applicant has again set forth in the renewed petition is not sufficient. To meet condition II.6.2, applicant must clearly setting forth specific locations where each of the limitations (or portions thereof) are disclosed in each reference. This requirement has not been met by the applicant.

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.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt
Business Practice Specialist
Technology Center 3600

RW/jm: 11/15/07

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530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
Michael C. Pousti :
Application No. 11/751,538 : DECISION ON PETITION
Filed: May 21, 2007 : TO WITHDRAW
Attorney Docket No. 116559-1700CP : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 29, 2009.

The request is **APPROVED**.

A review of the file record indicates that William D. McSpadden: (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, William D. McSpadden 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).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: William D. McSpadden
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
BHUMKAR, Soujanya et al. :
Application No. 11/751,540 : DECISION ON PETITION
Filed: May 21, 2007 : TO WITHDRAW
Attorney Docket No. **27142-14961** : FROM RECORD
:

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 08, 2008.

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

A review of the file record indicates that the power of attorney to Sonnenschein Nath & Rosenthal LLP has been revoked by the assignee of the patent application on January 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FENWICK & WEST LLP**
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Hidenori IKENO	: DECISION ON REQUEST FOR
Patent Number	: 7649597	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of :
Han-Soo Joo, et al. :
Application No. 11/751,560 : DECISION ON PETITION
Filed: May 21, 2007 : TO WITHDRAW
Attorney Docket No. 025704-000210US : 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 January 4, 2008.

The request is **APPROVED**.

A review of the file record indicates that Townsend and Townsend and Crew, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Townsend and Townsend and Crew, LLP has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATENTIQUE, PLLC
PO BOX 5803
BELLEVUE, WA 98006

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/751,560	05/21/2007	Han-Soo Joo	025707-000210US

CONFIRMATION NO. 2210

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

POWER OF ATTORNEY NOTICE

OC000000030834458

Date Mailed: 07/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/04/2008.

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

/amwise/

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 1022
MINNEAPOLIS MN 55440-1022

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FEB 05 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Hoel et al :
Application No. 11/751,561 : DECISION ON PETITIONS
Filed: May 21, 2007 :
Attorney Docket No. 07844-257003/P231 C2 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 3, 2009, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed February 3, 2009, under 37 CFR § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 of the prior-filed application set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on December 31, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the petition under 37 CFR 1.78(a)(3):

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

---

[1] *The 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.*

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2625 for appropriate action on the amendment submitted February 3, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

JENNINGS, STROUSS & SALMON, P.L.C.
201 E. WASHINGTON ST., 11TH FLOOR
PHOENIX, AZ 85004

In re Application of :

Scott F. SONES :
Application No. 11/751,562 : DECISION ON PETITION TO
Filed: May 21, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **58550-3** :

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 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Christine M. McAuliffe on behalf of all attorneys of record. All attorneys/agents associated with the Customer Number 39978 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 sole named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed December 11, 2008 that requires a reply from the applicant.

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

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

cc: **SCOTT F. SONES**
222 EAST FIRST STREET
NILAND, CA 92267

cc: **OPTION PHARMACEUTICALS**
P.O. BOX 414
NILAND, CA 92267

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2026 CARIBOU DR
SUITE 201
FORT COLLINS CO 80525

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OFFICE OF PETITIONS

In re Application of :
Rocca, Jorge, J. :
Application No. 11/751,568 : ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. CSUR.19USU1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the $300.00 publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is noted that the $755.00 issue fee was charged for a second time on August 25, 2009. Accordingly, the duplicate charge will be credited to petitioner's deposit account as authorized.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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OCT 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Anthony J. Campagna	:	DECISION ON PETITION
Application No. 11/751,570	:	TO WITHDRAW
Filed: May 21, 2007	:	FROM RECORD
Attorney Docket No. 622742000100	:	

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 1, 2008.

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

A review of the file record indicates that on May 29, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gazdzinski & Associates
11440 West Bernardo Court, Suite 375
San Diego CA 92127

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TAREK N. FAHMI
SONNENCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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MAY 1 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Austin Shoemaker	:	DECISION ON PETITION
Application No. 11/751,577	:	TO WITHDRAW
Filed: May 21, 2007	:	FROM RECORD
Attorney Docket No. 27142-14962	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2008.

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

A review of the file record indicates that on January 22, 2009 the power of attorney to Sonnenschein Nath & Rosenthal LLP 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: Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View CA 94041

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Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Soujanya Bhumkar, et al. :
Application No. 11/751,585 : DECISION ON PETITION
Filed: May 21, 2007 : TO WITHDRAW
Attorney Docket No. 27142-14963 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2008.

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

A review of the file record indicates that the power of attorney to Sonnenschein Nath & Rosenthal LLP has been revoked by the assignee of the patent application on January 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fenwick & West LLP**
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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KENYON & KENYON LLP
333 W. SAN CARLOS STREET
SUITE 600
SAN JOSE, CA 95110-2731

Mail Date: 04/21/2010

Applicant	: Trinh T. PHUNG	: DECISION ON REQUEST FOR
Patent Number	: 7640370	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2007	: 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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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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OFFICE OF PETITIONS

In re Application of :
Raymond L. SHARRAH et al. :
Application No. 11/751,606 : DECISION ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. **0096-P03341US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 11, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 11, 2008 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Gerald J. Iwanejko, Jr.
229 Hickory Hill Drive
Volant, PA 16156

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AUG 2 5 2008

In re Application of	:	
Eric John Burckart et al.	:	
Application No. 11/751,623	:	DECISION ON PETITION
Filed: May 21, 2007	:	TO WITHDRAW
Attorney Docket No. RSW920070073US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 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 Gerald Joseph Iwanejko, Jr. and all attorneys/agents of record has been revoked by the assignee of the patent application on June 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Lee Law, PLLC
IBM Customer Number
P.O. Box 189
Pittsboro, NC 27312

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Application of
Vijayan et al.
Application No. 11/751,631
Filed: May 21, 2007
Attorney Docket No. 030568C1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

The instant nonprovisional application was filed on May 21, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR § 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim of benefit to the prior-filed application is granted.

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2617 for appropriate action on the Amendment submitted June 15, 2010, including consideration by the examiner of the claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/751,631	05/21/2007	2617	6250	030568C1	89	12

CONFIRMATION NO. 2351

CORRECTED FILING RECEIPT

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

Date Mailed: 07/14/2010

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)

Rajiv Vijayan, San Diego, CA;
Aamod Khandekar, San Diego, CA;
Fuyun Ling, San Diego, CA;
Gordon Kent Walker, Poway, CA;
Ramaswamy Murali, San Diego, CA;

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

Domestic Priority data as claimed by applicant

This application is a CON of 10/932,586 09/01/2004 PAT 7,221,680
which claims benefit of 60/499,741 09/02/2003
and claims benefit of 60/559,740 04/05/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/751,631**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTIPLEXING AND TRANSMISSION OF MULTIPLE DATA STREAMS IN A WIRELESS MULTI-CARRIER COMMUNICATION SYSTEM

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).

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Craig M. Conway	: DECISION ON REQUEST FOR
Patent Number	: 7624294	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **83** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 W. BULSON (PARK)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE / 19TH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/21/2010

Applicant	: Daniel J. Funke	: DECISION ON REQUEST FOR
Patent Number	: 7648378	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER P.C.
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

COPY MAILED
JAN 27 2010

In re Application of	:	
Benjamin Van Camp	:	
Application No. 11/751,750	:	DECISION ON PETITION
Filed: May 22, 2007	:	
Attorney Docket No. 18703-1756	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before October 28, 2009, as required by the Notice of Allowability mailed July 28, 2009. Accordingly, the date of abandonment of this application is October 29, 2009. A Notice of Abandonment was mailed November 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings; (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 the Office of Data Management for processing into a patent and review of the Corrected Drawings submitted on December 1, 2009.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of:	:	
Scarpello et al.	:	
Application No. 11/751789	:	DECISION DISMISSING
Filing or 371(c) Date: 05/22/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
COMPUTER SYSTEM FAILURE	:	
MANAGEMENT WITH	:	
TOPOLOGY-BASED FAILURE	:	
IMPACT DETERMINATIONS	:	

This is in response to a"Petition Under 37 C.F.R 1.47(a) for Application with Non-Signing Coinventor", filed August 12, 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 **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 May 22, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on June 13, 2007, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the present petition in response to the Notice, along with an oath/declaration. Applicant asserts that the nonsigning inventor, Samual L. Scarpello, is unavailable because he cannot be found despite diligent effort. Applicant provides that the last known mailing address of the nonsigning inventor is Hewlett-Packard Company. Applicant states that he called Directory Assistance for the area where the nonsigning inventor is suspected to reside, but there were no listings for the nonsigning inventor. Applicant also sent an email to the nonsigning inventor using the name Scarpell, and Scarpello, both of which failed. Applicant states that a current residence cannot be found for the nonsigning inventor. The oath/declaration filed with

the petition in response to the Notice lists the residence of the nonsigning inventor as "unknown."

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 items (1) and (2) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions. *See*, MPEP § 409.03(d).

As to item (2), 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
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of:	:	
Scarpello et al.	:	
Application No. 11/751789	:	DECISION NOTING
Filing or 371(c) Date: 05/22/2007	:	JOINDER OF
Title of Invention:	:	INVENTOR
COMPUTER SYSTEM FAILURE	:	
MANAGEMENT WITH	:	
TOPOLOGY-BASED FAILURE	:	
IMPACT DETERMINATIONS	:	

This is in response to a"Reply to Decision Dismissing Petition Under 37 C.F.R 1.47(a)," and the executed oath/declaration, filed November 20, 2007, wherein the previously nonsigning inventor joined in the application. The delay in treating this petition is regretted.

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 Technology Center Art Unit 2113 for docketing and examination 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
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7,553,454 B2
Ser. No. : 11/751,793
Inventor(s) : Yamada et al.
Issued : Jun. 30, 2009
Title : MICRO CHIP DEVICE
Docket No. : AID-20020

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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SEP 12 2008

TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: ADACHI et al
Application No. 11/751,797
Filed: May 22, 2007
For: SYSTEM FOR SUPPORTING PREPARATION OF SCHEDULE FOR DEVELOPMENT PROJECT AND THE METHOD THEREOF

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 2, 2008, to make the above-identified application special.

The petition is **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

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

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

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

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,797	05/22/2007	Hisatoshi Adachi	JP920060041US1	2632

27431 7590 09/15/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
09/15/2008	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

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MAILED

JUN 22 2007

Technology Center 2100

Robert D. Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re Application of:
Yu Cao
Serial No.: 11/751,802
Filed: May 22, 2007
Attorney Docket: 101618.0004US1
Title: METHODS AND APPARATUS FOR ENITY SEARCH

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 22, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 is 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 conditions I.1 – I.4, II.1 – II.4, II.5.2, II.5.3, II.6.1, II6.2, II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5.1, II.6.3 and II.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 of MPEP § 708.02(a)(I.)(H)(1)[1] and item II.5.1 above, the preexamination search must involve 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. A review of the search history and logic indicates that the applicant limited the search to U.S. Patents and Patent Application Publications.

Regarding to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II.6.3 above, the applicant failed to provide a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR §§ 1.111(b) and (c). The applicant should ensure that the explanation/discussion is directed to how the language of each of the **claims** is specifically distinguishable and patentable from the references provided pursuant to requirement, supra.

Finally, regarding to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document only identifies specific figures and portions of text in the specification as providing support under 35 U.S.C. § 112, First paragraph, but fails to identify each claim limitation and the corresponding support in the cited portions of specification. Clarification and identification of support is required. Similar clarification and identification of support is required for each claim limitation in Provisional application 60/811989, from which the instant application claims benefit under 35 U.S.C. § 119(e).

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.

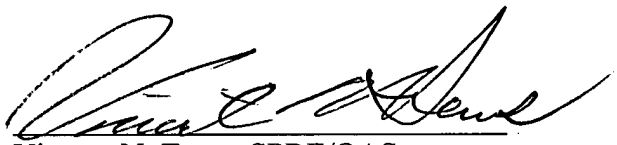
Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely.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

[1] MPEP 8th ed. rev 5 August 2006

of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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AUG 14 2007

Technology Center 2100

Robert D. Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re Application of:
Yu Cao
Serial No.: 11/751,802
Filed: May 22, 2007
Attorney Docket: 101618.0004US1
Title: METHODS AND APPARATUS FOR ENITY SEARCH

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 renewed petition filed on July 20, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

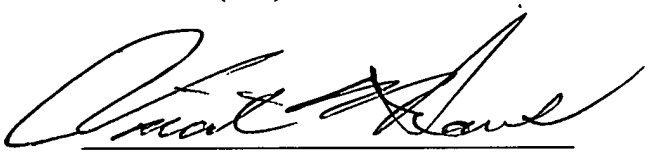
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



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Computer Architecture, Software, and
Information Security

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MINNEAPOLIS, MN 55402-0903

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard Paul Bushman	:	DECISION ON PETITION
Application No. 11/751,803	:	TO WITHDRAW
Filed: May 22, 2007	:	FROM RECORD
Attorney Docket No. 15686.1US01	:	

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 13, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 cannot be approved since; the proper certification was not made. Pursuant to 37 CFR 10.40, 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 that the practitioner intends to withdraw from employment.

Accordingly, any subsequent requests must include all certifications pursuant to 37 CFR 10.40.

There are no outstanding Office actions that require a reply from the applicant.

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

Telephone inquires concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Xiaohong Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7650190	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **409** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/751,817	05/22/2007	John E. Davidsaver	203566.00002	2660

21324 7590 08/27/2008
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

EXAMINER	
SINGH, SUNIL	

ART UNIT	PAPER NUMBER
3672	

NOTIFICATION DATE	DELIVERY MODE
08/27/2008	ELECTRONIC

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

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

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

patents@hahnlaw.com
akron-docket@hotmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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FROM DIRECTORS OFFICE

AUG 26 2008

TECHNOLOGY CENTER 3600

HANH LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

In re application of
Davidsaver et al.
Application No. 11/751,817
Filed: May 22, 2007
For: MODULAR RETAINING WALL

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

This is a decision on the petition filed on November 5, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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 petition fails to comply with condition II.1, above.

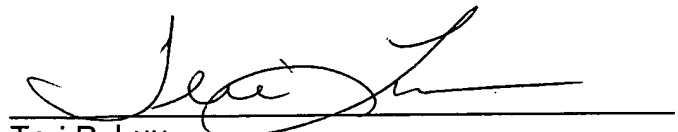
The petition was not filed with the application. The application was filed on May 22, 2007; whereas the petition was filed on November 5, 2007.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure. Given the above failure of filing a complete application the petition has not been further reviewed on the merits.

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. Further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.



Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 08/26/08

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: Paul Williamson	: DECISION ON REQUEST FOR
Patent Number	: 7577061	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/751,884	05/22/2007	Heun-jin Lee	104-1298	2781

7590 06/03/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
06/03/2009	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: 06/04/2009 NFARMER
05/23/2007 INTEFSW 00015999 502827 11751884
02 FC:1111 500.00 CR
04 FC:1202 300.00 CR
05 FC:1201 200.00 CR

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ROCKVILLE, MD 20850

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Applicant: Ruben
Appl. No.: 11/751,886
Filing Date: May 22, 2007
Title: 70 HUMAN SECRETED PROTEINS
Attorney Docket No.: P2001P1C1D1
Pub. No.: 2007/0238664 A1
Pub. Date: October 11, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 10, 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 on the front page of the publication, wherein a portion of the benefit claim data is not printed.

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

The error in the benefit claim on the front page of the publication may be an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the benefit claim on the front page of the publication is not a material mistake as the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The error in the benefit claim on the front page of the publication is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The first line of the specification

[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).

contains the proper benefit claim, thus one can read and understand the application and properly use the patent application publication as a prior art reference.

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

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/751,918	05/22/2007	Jeffrey D. Smith	62952US002	2854

7590 03/16/2009

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
BASS, DIRK R	

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
03/16/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 03/13/2009 NFARMER
05/23/2007 INTEFSW 00016304 133723 11751918
02 FC:1111 500.00 CR
04 FC:1202 600.00 CR

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MAILED

JUL 16 2010

OFFICE OF PETITIONS

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD.
BOSTON MA 02110

In re Application of	:	
Jose ARIAS	:	
Application No. 11/751,956	:	DECISION ON PETITION
Filed: May 22, 2007	:	TO WITHDRAW
Attorney Docket No. JAK-002.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 7, 2010.

The request is **APPROVED**.

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

The request was signed by Scott E. Kamholz on behalf of the attorneys of record associated with Customer No. 25181.

The attorneys of record associated with Customer No. 25181 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: JOSE ARIAS
9903 NW 9TH CIRCLE, #3
MIAMI, FL 33172

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/751,956	05/22/2007	Jose Arias	JAK-002.01

CONFIRMATION NO. 2923

POWER OF ATTORNEY NOTICE

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

OC00000042609194

Date Mailed: 07/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2010.

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

/dcgoodwyn/

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

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ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Robert A. Hodorek	: DECISION ON REQUEST FOR
Patent Number	: 7641663	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/751,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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James B. Conte
120 S. Riverside Plaza, 22nd Floor
Chicago, IL 60606

COPY MAILED

JUN 02 2008

OFFICE OF PETITIONS

In re Application of	:	
Ralph Peter Hegler	:	
Application No. 11/752,006	:	DECISION ON PETITION
Filed: May 22, 2007	:	TO WITHDRAW
Attorney Docket No. 926504-105780	:	FROM RECORD
	:	

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 21, 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, "File responsibility was transferred to the attorney/agents . . . " does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant, since no assignee has properly intervened in this application.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Ralph Peter Hegler
Schillerstrasse 7
D-97688 Bad Kissingen
Germany

cc: Welsh & Katz, Ltd.
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

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JAMES NEIL RODGERS
8853 214TH PLACE
LANGLEY -- BRITISH COLUMBIA V1M 2H9 CA CANADA

SEP 18 2007

SEP 18 2007

In re Application of: RODGERS Serial No.: 11/752,062 Filed: May 22, 2007 Title: COLLECTABLE COP/SPOT CHIP	:	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 22, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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, 5.1, 5.3, 6, and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II : 5.2, 6.1, 6.4 and 6.5 above. Conditions 6.2 and 6.3 cannot be evaluated presently as no prior art was cited and these sections are

presently not applicable herein. 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 four page PTO/SB/28 form, the "pre-examination search document" including pages 1-3 and the "accelerated examination support document" comprising page 1. No Information Disclosure Statement or form PTO/SB/08A(substitute PTO-1449 A) has been submitted.

Regarding the requirements of section II element 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 340 subclasses 539.1, 539.11, 539.13 and 572.1 at least. It is further noted that the claims are of such a broad and encompassing nature that numerous other search areas exist and the expected search for these claims would cover vast amounts of art. The purpose of the search requirement in the Accelerated Examination petition is for petitioner to complete a thorough search of the prior art and then draft the claims so as to distinguish over the closest prior art. It is somewhat of an iterative process. It is not known which database or databases were used (EAST, EPO, JPO, WEST, US PG Pubs, OCR backfile, etc.) when searching "the USPTO database". No search logic has been provided. A listing of keywords is not logic. Further, it is not clear from the listed class/subclass searching or from the listed database/text searching how any of the limitations of the dependent claims were specifically searched for. For example, how was gigahertz frequency format signal of claims 2 or 3 specifically searched? It does not appear that complete lists of synonyms were utilized in the text searching. "Asset tracking", "smart card", "smart tag", "transponder", " integrated circuit card", "ic card", "chip card", "radio tag" are all viable synonyms for the instant claimed invention. From the listed search, it is not known what foreign patent searching was conducted as the statement "searches conducted through the Japanese Patent office website and European Patent Office website using the logic above" does not relate to any specific search logic. It does not appear that any non-patent literature searching was conducted, nor is any justification provided with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources.

Regarding the requirements of section II element 6.1, no 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 has been submitted. While it is appreciated that petitioner is of the opinion that no prior art is close to the claimed invention, this simply cannot be the case. Further, as the completeness and thoroughness of the performed prior art search impacts the prior art uncovered by petitioner, certainly petitioner is aware of at least one prior art reference within the field of endeavor of the invention. A simple text search was performed by the undersigned, with US Patent 7138914 readily uncovered (copy provided to applicant herewith). The reference appears highly pertinent to the instant claims in that it includes asset monitoring and tracking, use of RFID tags and cell towers.

Regarding the requirements of section II element 6.4 outlined above, the petition fails to identify a concise statement of the utility of the invention as defined in each of the independent claims.

A general statement directed to the overall concept of the invention is not specifically relating the utility to each of the independent claims as is required by the policy. Petitioner should reference the independent claims specifically when discussing the utility of the invention.

Finally, regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. The instant petition only identifies portions of text with respect to claim numbers as opposed to the required claim limitations. This section is wholly deficient.

OBSERVATIONS

Regarding the requirements of section II element 6.2 outlined above, the following is offered to aid petitioner in preparing any request for reconsideration which includes a citation of the petitioner's opinion of the closest prior art. 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", nor does it allow for grouping and general discussions. A grantable petition must delineate every limitation of every claim and identify where the equivalent limitation is disclosed in each piece of prior art cited on the IDS. As is published on www.uspto.gov/web/patents/accelerated/ in "Guidelines for Applicants under the new accelerated examination procedures"):

> *For each reference cited, the accelerated 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. Applicants should specify where in each of the cited references the particular claim limitations are found. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.*

Similarly, with respect to the requirements of section II element 6.3 outlined above, the following is offered to aid petitioner in preparing any request for reconsideration which includes a detailed explanation of patentability of the instant claims over the closest prior art cited, and any other related files claiming the same invention (double patenting). Petitioner must 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). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. The policy statement does not caveat "the independent claims", nor does it allow for grouping and general discussions. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language.

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 Programs Examiner
Technology Center 3700

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OFFICE OF PETITIONS

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of :
John Walkoe et al. :
Application No. 11/752,072 : DECISION ON PETITION
Filed: May 22, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 70034700.0002 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 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, Wilbur J. Walkoe, 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 3621 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of:	:	
Choe et al.	:	DECISION DISMISSING
Application No.: 11/752087	:	PETITION UNDER
Filing or 371(c) Date: 05/22/2007	:	37 CFR 1.47(a)
Title of Invention:	:	
FORMULATION TO TREAT	:	
EAR INFECTION	:	

This Decision is in response to the "Rule 1.47(a) Petition to File Application by Other than all Inventors," filed Jnauary 28, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [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).

Background

The above-identified application was filed on May 22, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on June 20, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition wherein Applicant asserts that the nonsigning inventor refuses to join in the application. In support of this assertion, Applicant files a pertinent facts wherein Applicant provides that the application and Declaration/Power of Attorney were forwarded via email to the nonsigning inventor; however the nonsigning inventor has not responded to the email transmission. Petitioner provides that the nonsigning inventor, Dr. Michael T. Murray, relayed to Ms. White over the telephone that he had faxed the document, but the document was

not received by petitioner. Dr. Murray was asked to fax the document again. No statement from Ms. White has been provided.

Applicable Law, Rules and 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 (1) set forth above.

As to item (1), the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence that demonstrates that it is clear that the inventor understands exactly what it is that he is being asked to sign. Applicant is cautioned that receipt of an application via email transmission must be demonstrated by Applicant before a petition may be granted. While receipt of an email may be confirmed by the sender, receipt of an email attachment may not be confirmed by the sender. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor.

The MPEP further provides

> 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. (Emphasis supplied).

MPEP 409.03(d).

In this instance, Applicant asserts that a copy of the application and Declaration were sent to the nonsigning inventor via email, however, there is no direct evidence to support a finding that the application was received by the inventor. Here, the nonsigning inventor has not acknowledged receipt of the application papers, nor has he refused to join in the application. In this regard, Petitioner states only that Dr. Murray told Ms. White that he had faxed the documents. Applicant is advised to mail the application (specification, claims and drawings), to the last known address of the inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Conclusion

Absent an express refusal to join in the application, Applicant must present a copy of the application to the nonsigning inventor before a refusal to join in the application may be alleged.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
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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JUN 20 2008

OFFICE OF PETITIONS

In re Application of:	:	
Choe et al.	:	DECISION NOTING
Application No.: 11/752087	:	JOINDER OF
Filing or 371(c) Date: 05/22/2007	:	INVENTOR
Title of Invention:	:	
FORMULATION TO TREAT	:	
EAR INFECTION	:	

This is in response to the Request for Reconsideration of Petition Under Rule §1.47(a), filed May 12, 2008, 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 Technology Center Art Unit 1614 for examination 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
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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Benjamin M. Galkin	:	
Application No. 11/752,142	:	DECISION ON PETITION
Filed: May 22, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. GALK-0014	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 22, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2882 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/752,165	05/22/2007	Hak-Ki Choi	59443/L550	3287

7590 07/01/2010

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
MATTHEWS, ANDRE L	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
07/01/2010	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

Adjustment date: 07/01/2010 MFARMER
05/23/2007 INTERSO 00000358 031728 11752165
02 FC:1111 -500.00 CR

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BOZICEVIC, FIELD & FRANCIS LLP
STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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NOV 10 2008

OFFICE OF PETITIONS

In re Application of :
GARNER, Craig C. et al. :
Application No. 11/752,188 :
Filed: May 22, 2008 :
Attorney Docket No. **STAN-496** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 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: **KING & SPALDING**
1000 BRIDGE PARKWAY
SUITE 100
REDWOOD SHORES CA 94065

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GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Jiang Qian :
Application No. 11/752,191 : ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. 24207-12053 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2009, to revive the above-identified application.

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 January 30, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

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

This application is being referred to Technology Center AU 2156 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted July 28, 2009 in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/752,194	05/22/2007	Ji-Hwan Yoon	AB-2387 US	3333

7590 04/13/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
HJERPE, RICHARD A	

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
05/23/2007 INTEFSW 00018529 502257 11752194
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR

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MAILED

JUN 22 2007

Technology Center 2100

Robert D. Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re Application of:
Yu Cao
Serial No.: 11/752,205
Filed: May 22, 2007
Attorney Docket: 101618.0005US1
Title: METHODS AND APPARATUS FOR SEARCHING WITH AWARENESS OF GEOGRAPHY AND LANGUAGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 22, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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 is 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 conditions I.1 – I.4, II.1 – II.4, II.5.2, II.5.3, II.6.1, II6.2, II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5.1, II.6.3 and II.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 of MPEP § 708.02(a)(I.)(H)(1)[1] and item II.5.1 above, the preexamination search must involve 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. A review of the search history and logic indicates that the applicant limited the search only to U.S. Patents and Patent Application Publications.

Regarding to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II.6.3 above, the applicant failed to provide a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR §§ 1.111(b) and (c). The applicant should ensure that the explanation/discussion is directed to how the language of each of the **claims** is specifically distinguishable and patentable from the references provided pursuant to requirement, supra.

Finally, regarding to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document only identifies specific figures and portions of text in the specification as providing support under 35 U.S.C. § 112, First paragraph, but fails to identify each claim limitation and the corresponding support in the cited portions of specification. Clarification and identification of support is required. Similar clarification and identification of support is required for each claim limitation in Provisional application 60/811989, from which the instant application claims benefit under 35 U.S.C. § 119(e).

DECISION

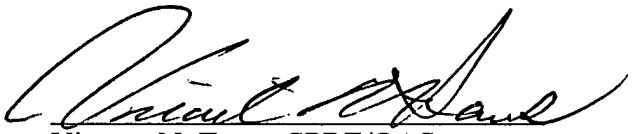
For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

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.

[1] MPEP 8th ed. rev 5 August 2006

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 concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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AUG 14 2007

Technology Center 2100

Robert D. Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re Application of:
Yu Cao
Serial No.: 11/752,205
Filed: May 22, 2007
Attorney Docket: 101618.0005US1
Title: METHODS AND APPARATUS FOR SEARCHING WITH AWARENESS OF GEOGRAPHY AND LANGUAGES

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 renewed petition filed on July 20, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

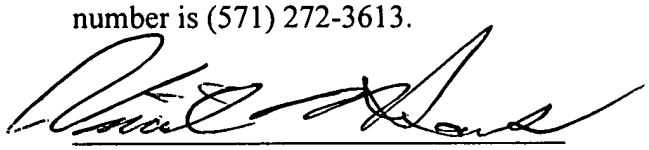
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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SCHOX PLC
730 Florida Street #2
San Francisco CA 94110

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of
Hamady
Application No. 11/752,253
Filed: May 22, 2007
Title: Precessional Device and Method

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 24, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a complete response to a Notice to File Missing Parts of Nonprovisional Application which was mailed on June 13, 2007. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 14, 2007. A Notice of Abandonment was mailed on February 27, 2008.

Petitioner maintains a reply to the Notice of Missing Parts was submitted on August 6, 2007. Petitioner states that the original reply to the Missing Parts was either scanned, uploaded or received incorrectly.

Petitioner's evidence has been considered but deemed to be unpersuasive. A review of the record shows that while petitioner did submit a reply to the August 6, 2007, the

reply was incomplete. A review of the record shows that the Office received what appears to be a blown up section of page two of a declaration. It appears that the declaration was improperly scanned prior to submitting to the Office. A confirmation was made via EFS-Web -Team that the Office did not receive a complete declaration on August 6, 2007. Further, review of the Electronic Acknowledgement Receipt shows that only one page of oath or declaration was received. Thus, petitioner is unable to establish that a complete reply to the Notice of Missing Parts was timely submitted.

The submission of a complete declaration on February 6, 2008 was submitted after the maximum extendable time period which expired on January 13, 2008. As such the complete declaration submitted on February 6, 2008 was untimely.

Petitioner may wish to file a petition under 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SCHOX PLC
730 Florida Street #2
San Francisco CA 94110

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SEP 15 2008

In re Application of :
Peter Hamady :
Application No. 11/752,253 : DECISION ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. INNO-P03-COB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a complete response to a Notice to File Missing Parts of Nonprovisional Application which was mailed on June 13, 2007. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 14, 2007. A Notice of Abandonment was mailed on February 27, 2008. A petition filed under 37 CFR 1.181 was dismissed on July 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of declaration and surcharge, (2) the petition fee of 770.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Processing for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CURTIS L. HARRINGTON
6300 STATE UNIVERSITY DRIVE, SUITE 250
LONG BEACH CA 90815

MAILED SEP 18 2007

In re Application of: Mah et al.
Application No.: 11/752,256
Filed: May 22, 2007
Title: JAR OPENER

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 22, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). A supplemental petition was filed on August 13, 2007.

The petition to make the application special is **DISMISSED as moot**.

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 interpretation;

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

Initially, it is noted that an office action was mailed on September 14, 2007. In view of this, the petition is dismissed as moot given that the application is now under examination. However, the deficiencies of the petition are set forth below should applicant desire to file a request for reconsideration to place this application in the AE program.

The conditions I:1-4, II: 1-5, 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, 5.2, 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 two page petition, the "pre-examination search document" including pages 1-3; the "accelerated examination support document" comprising pages 1- 3, and an Information Disclosure Statement including form PTO -1449 that were filed on May 22, 2007. The four page PTO/SB/28 form, an additional copy of the supplemental "pre-examination search document" including pages 1-3, an additional copy of the "accelerated examination support document" comprising pages 1- 3, and an abbreviated Information Disclosure Statement were filed on August 13, 2007.

Regarding the requirements of section II element 5.1 and 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 81 subclasses 3.2, 3.25, 3.4, 3.41, 3.42, 3.29, 3.31, 3.32, 3.33, 3.36, and 3.37. It appears keyword searches should include "(jar adj opener)" and "((jar adj opener) and (motor or battery))". The keyword searches also appear to the deficient in that the order of default of the search terms used is not clear. For example, in (hand-held or "hand held" and "jar opener) since both "or" and "and" are used in the search it is not clear whether ((hand-held or "hand held") and "jar opener) or (hand-held or ("hand held" and "jar opener)) would have resulted from the search. The results would be different for these searches. It is also not clear what operator is represented by the plus (+) sign in the search of the Japan Patent Office PAJ index database service. In addition, there is no non-patent literature search. It would appear a search in databases where new products are announced would be appropriate as well as a search in google. In addition all previous searches should be updated.

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 each of the reference(s) and where the limitation is disclosed in each of the cited reference. 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", nor does it allow for grouping and general discussions. A grantable petition must delineate every limitation of every claim and identify where the equivalent limitation is disclosed in each piece of prior art cited on the IDS. As is published on www.uspto.gov/web/patents/accelerated/ in "Guidelines for Applicants under the new accelerated examination procedures"):

> *For each reference cited, the accelerated 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. Applicants should specify where in each of the cited references the particular claim limitations are found. This process is intended to be analogous to the analysis an examiner uses when locating*

a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.

First, petitioner's submission is not specific enough. Only three of the 19 references cited on the IDS are discussed. The three references discussed are not discussed relative to each limitation in every claim. All cited references must be discussed relative to all limitations in all of the claims.

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). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. There is no individual discussion for each reference listed on the PTO-1449. For these reasons, the petition does not meet the requirement of section II, element 6.3

Regarding the requirements of section II element 6.4 outlined above, since there is only one claim, the statement of the utility of the invention is considered to be for claim 1. Should additional independent claims be added, petitioner would need to reference each independent claim specifically when discussing the utility of the invention.

Finally, regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and portions of text in general as opposed to specific references to the required claim limitations.

DECISION

For the above-stated reasons, the petition is **dismissed as moot**.

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 Linda J. Sholl, TC 3700 Special Programs Examiner, at (571) 272-4391.

Linda J. Sholl
Special Programs Examiner
Technology Center 3700

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JUN 07 2010

OFFICE OF PETITIONS

TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE, NC 28277-0076

In re Application of
Paul Jamison, et al.
Application No. 11/752,277
Filed: May 22, 2007
Attorney Docket No. 1061.006

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 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by David Higgins on behalf of all attorneys of record who are associated with customer No. 36790. All attorneys/agents associated with the Customer Number 36790 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YO! BRANDS, LLC
5801 PROVIDENCE COUNTRY CLUB DRIVE
CHARLOTTE, NC 28277

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
11/752,277	05/22/2007	Paul Jamison	1061.006

CONFIRMATION NO. 3474

POWER OF ATTORNEY NOTICE

36790
TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE, NC 28277-0076

Date Mailed: 06/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

Franco A Serafini
Themis Law
7660 Fay Ave Ste H-535
La Jolla CA 92037

In re Application of :
ALDO MOZZI et al. :
Application No. 11/752,278 : ON PETITION
Filed: MAY 22, 2007 :
Attorney Docket No. 07UVB005 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2010, 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 above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 16, 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 September 17, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 16, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the enclosed PTOL-303.

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 Miranda Le at (571) 272-4112 or in her absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Encl.: PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/752,278	**Applicant(s)** MOZZI ET AL.	
	Examiner NICOLE F. LAVERT	**Art Unit** 3762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 8 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *32-46*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The amendments of independent claim(s) 32, such as the addition of "transcutaneous power supply comprising...three or more satellite sensors...a housing containing the transmitter coil, the satellite sensors, and the indicators..." and "...control circuit cause changes...such to cause a visual indication of a direction to move the power supply to position the transmitter coil over the receiver coil for optimal power transmission...".

Continuation of 11. does NOT place the application in condition for allowance because: The arguments are directed to the new issues that will require further consideration and/or a further search.

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THEMIS LAW
7660 FAY AVENUE
SUITE H-535
LA JOLLA, CA 92037

MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of:
Aldo MOZZI et al.
Application No. 11/752,278
Filed: May 22, 2007
Attorney Docket No. 07UVB005

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) filed April 26, 2010 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 19, 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 September 20, 2009.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination, and the required fees; (2) the petition fee of $810.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of June 19, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3762 for appropriate action.

David A. Bucci
Petitions Examiner
Office of Petitions

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JUN 07 2010

OFFICE OF PETITIONS

TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE, NC 28277-0076

In re Application of
Paul Jamison, et al.
Application No. 11/752,281
Filed: May 22, 2007
Attorney Docket No. 1061.006

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 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by David Higgins on behalf of all attorneys of record who are associated with customer No. 36790. All attorneys/agents associated with the Customer Number 36790 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YO! BRANDS, LLC
5801 PROVIDENCE COUNTRY CLUB DRIVE
CHARLOTTE, NC 28277

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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
11/752,281	05/22/2007	Paul Jamison	1061.007

CONFIRMATION NO. 3480

POWER OF ATTORNEY NOTICE

36790
TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE, NC 28277-0076

OC000000041965701

Date Mailed: 06/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Michael WENDT et al. :
Application No. 11/752,296 : DECISION ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. **TI-62561** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 08, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 09, 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 the required drawings, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 08, 2008 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2816 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **WILLIAM B. KEMPLER**
7839 CHURCHILL WAY M/S 3999
DALLAS TX 75251

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 12-07

Paper No: __

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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DEC 17 2007
OFFICE OF PETITIONS

In re Application of :
Yu, et al. :
Application No. 11/752,348 : ON PETITION
Filed: 23 May, 2007 :
Attorney Docket No. 005127.00892 :

This is a decision on the petition filed on 28 August, 2007, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons discussed above and set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47."

1 NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 23 May, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 11 June, 2007 Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 28 August, 2007, Petitioner Susan A. Wolfe (Reg. No. 33,568), filed, *inter alia*, an oath/declaration signed by co-inventors Messrs. You, Schiller, Jones, Avar and Hoffer on behalf of themselves and non-signing co-inventor Daniel DeSpain (Mr. DeSpain) and the petition, which petition makes no showing that the entire application (description, claims, abstract and drawings) were transmitted as required by law to the non-signing inventor—instead Petitioner's statement speaks of "formal documents" and provides no copies of any transmittal letter evidencing the specifics of transmittal.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation) since all owe to the Office the continuing duty to disclose.[2]

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other

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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).

See, specifically, the regulations at 37 C.F.R. §10.18.

> inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. (The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63

and 1.64 signed by the Rule 1.47 applicant is required.[3])

Petitioner's attention is directed to the discussion in the NOTES, BACKGROUND and ANALYSIS, above, and Petitioner should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) the requirements that a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to, and evidencing reasonable diligence in ascertaining a reasonably believed last known/current address for the non-signing inventor, all as required by law.

CONCLUSION

Therefore, the instant petition hereby is **dismissed**, and Petitioner is requested to review the requirements at MPEP §409, et seq., and move stepwise through their satisfaction in any future petition herein under 37 C.F.R. §1.47.

Further correspondence with respect to this matter should be addressed as follows:[4]

By mail: Commissioner for Patents[5]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[3] See: MPEP 409.03(b).

[4] On July 15, 2005, the Central Facsimile (FAX) Number changed from (703) 872-9306 to (571) 273-8300. Old number(s) no longer are in service and (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[5] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.23) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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3 The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Yu, et al. :
Application No.: 11/752,348 : DECISION
Filing Date: 23 May, 2007 :
Attorney Docket No. 005127.00892 :

This is a decision on the petition filed on 14 March, 2008, under 37 C.F.R. §1.47.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

Petitioner has shown that the non-signing inventor has failed and, thus, constructively refused to join in the filing of the above-identified application (and apparently refused delivery of the papers transmitted to him).

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.

The record reflects that: Petitioner demonstrates that the entire application—description, claims, abstract and drawings—was sent to and received at the last known residence address the non-signing inventor, and that the non-signing inventor has since failed and, thus, constructively refused to join in the filing of the above-identified application.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **granted**.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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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United States Patent and Trademark Office
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JUN 19 2008

OFFICE OF PETITIONS

DANIEL DESPAIN
489 WATERS ROAD
CASTLE ROCK, WA 98611

In re Application of :
Yu, et al. :
Application No.: 11/752,348 : COMMUNICATION
Filing Date: 23 May, 2007 :
Attorney Docket No. 005127.00892 :

Dear Daniel DeSpain:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an 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.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

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).

While telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s). Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

[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.

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

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	: Michael L. Piasse	: DECISION ON REQUEST FOR
Patent Number	: 7668616	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/752,353	: OF WYETH
Filed	: 05/23/2007	:
		:

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.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HARMAN - BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
GELHAR, Jens :
Application No. 11/752,418 :
Filed: May 23, 2007 :
Attorney Docket No. **11336/1595 (P06070US)** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROBERT P. HART, ESQ.**
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
BADRI NARAYANAN, et al :
Application No. 11/752,433 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. 70465.00022 : FROM RECORD
:

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 5, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKINSON WRIGHT PLLC
1875 Eye Street, NW
Suite 1200
WASHINGTON DC 20006

6/17/09

In re Application of:
HOPPER, MARK L. et al
Serial No.: 11/752,572
Filed: May 23, 2007
Docket: 46107-00162
Title: ELECTROMECHANICAL VALVE ACTUATOR BEGINNING OF STROKE DAMPER

DECISION ON PETITION

This is a decision on the petition filed on May 6, 2009 in which the petitioner requests reconsideration, modification and withdrawal of the restriction requirement issued on December 22, 2008. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **granted in part**.

The relevant record shows that:

> In the December 22, 2008 Office action, the examiner issued a restriction requirement in accordance with MPEP 806.04[1]. The examiner found that the species of Figs. 2 and 6; the species of Fig. 3; the species of Fig. 4; the species of Fig. 7; and the species of Fig. 8; and the subspecies of Fig. 5 are patentably distinct. On January 20, 2009, the applicant elected, with traverse, the species of FIG. 8 (Claims 14-16 and Claims 22-27). Applicants also indicated that claims 7-10 are also generic and that all of the claims are readable on the elected species. In the March 6, 2009 final rejection, the examiner disagreed with the applicant and withdrew claims 7-10 and 17-27 as non-elected claims from consideration. The examiner believes non-elected claims 7-10 and 17-27 do not read on the elected species of Fig 8. On May 6, 2009, the current petition is filed.

[1] MPEP 806.04**>Genus and/or Species< Inventions [R-3] **>Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct.

Discussion and Analysis

In the petition, petitioner argues that claims 7-10 are generic and that claims 14-16, 22-24, 26 and 27 were all directed and readable on the species as illustrated in Figure 8. Therefore, claims 7-10, 22-24, 26 and 27 should have been examined on their merits and should not have been withdrawn from consideration. Petitioner also argues that Figure 5 does not show an independent species or sub- species because the grooves shown are not mutually exclusive to the embodiments shown in any of Figures 2, 3, 4, 6, 7 or 8. Petitioner opines that Figure 5 is not an appropriate basis on which to require election of species. In the petition, petitioner continues to argue that claim 7 is generic to all identified species because claim 7 does not require any material element additional to those required by the species claims. Petitioner also keeps arguing that the independent claim 22 recites "said cavity being in constant fluid communication with said stem passage," which is a feature shown in Figure 8. Therefore, claims 14-16, 22-24, 26 and 27 are species claims for the elected species of Fig. 8. However, petitioner does admit that claims 17-21 are species claims for a non-elected species. Claims 17-21 would be properly withdrawn from consideration.

Afetr a careful review of the file history, the issue here is whether or not at least claims 7 and 22 are readable on the elected species of Fig 8. Claim 7 calls for an electromechanical valve actuator comprising: a stem defining a stem passage; and an annular sleeve cooperating with said stem to define a cavity capable of holding a fluid and wherein fluid within said cavity is capable of flowing from said cavity into said stem passage. Claim 22 calls a beginning of a stroke damper for an electromechanical valve actuator comprising: a valve stem; a rod engaging said valve stem; a stem passage defined by one of said valve stem and said rod; and a lash compensator defining a cavity, said cavity being in constant fluid communication with said stem passage. However, a complete study of the elected species of Fig 8, the limitation of claim 7 regarding "and wherein fluid within said cavity is capable of flowing from said cavity into said stem passage "is not found in Fig. 8. The limitation of claim 22 regarding "a rod engaging said valve stem" is also not found in the elected species of Fig. 8. Since the independent claims 7 and 22 are not readable on the elected species of Fig. 8, the entire chain of the dependent claims also would not be able to read on the elected species of Fig. 8. Therefore, the examiner has correctly held that claims 7-10 and 22-27 are not readable on the elected species of Fig. 8. Thus, claims 7-10 and 14-27 were properly withdrawn from consideration.

Regarding the restriction requirement of the sub-species of Fig. 5, petitioner correctly pointed out that there is no mutual exclusiveness disclosed. Therefore, in accordance with MPEP 806.04(f)[2] the election of sub-species of Fig 5 is hereby withdrawn.

[2] MPEP 806.04(f) [R-3]Restriction Between< Mutually Exclusive *>Species< > Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive.< Claims ** to different species **>are mutually exclusive if< one claim recites limitations **>disclosed for< a first species but not * a second, while a second claim recites limitations disclosed only for the second species and not the first. This **>may also be< expressed by saying that >to require restriction between claims limited to species, the< claims ** must not overlap in scope<.

Conclusion

For the reasons outlined above, the restriction requirement imposed in the December 22, 2008 Office action is in accordance with proper Office procedure. The restriction requirement regarding the sub-species of Fig. 5 only is hereby withdrawn. Accordingly, with the exception of Fig. 5, the election of species requirement of December 22, 2008 is proper.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3748 for consideration of Rule 116 Amendment filed on May 6, 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). 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 **granted in part.**

Karen M. Young, Director
Technology Center 3700

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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DUNLAP CODDING & ROGERS, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of Wyatt et al. :
Application No. 11/752,611 : Decision on Petition
Filing Date: May 23, 2007 :
Attorney Docket No. 8245.109 :

This is a decision on the petition filed June 26, 2007, under 37 CFR 1.57 requesting, in effect, that the Office treat one sheet of drawings containing Figures 8 and 9 filed on June 26, 2007, as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.57(a)."

A petition under 37 CFR 1.57 must include a petition fee of $400. Petitioner only submitted $130 for the petition fee. If petitioner wishes for the Office to consider the merits of the petition, petitioner must file a Request for Reconsideration and submit an additional $270.

Prior to filing a Request for Reconsideration, petitioner may wish to review MPEP 201.06(c)(IV) which states, with emphasis added,

> The inclusion of [an] incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

Petitioner may also wish to review 37 CFR 1.57(a)(3) which states, with emphasis added,

> "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)."

The Office of Patent Application Processing will be informed of the instant decision and will continue processing the application with a filing date of May 23, 2007, using only the application papers filed on May 23, 2007. During examination of the application, the examiner will treat the paper titled, "AMENDMENT" as an amendment pursuant to 37 CFR 1.57(a).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

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
Alexandria, Virginia 22313-1450
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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 04/21/2010

Applicant	: Norbert Moszner	: DECISION ON REQUEST FOR
Patent Number	: 7585901	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/752,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **215** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of :
Conn, et al. :
Application No. 11/752,709 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. J120U006US00 :

This is a decision on the petition filed July 2, 2007, requesting to change the order of the inventors listed on the above-cited application.

The petition is **dismissed**.

The fee for the instant petition is $400.00 and did not accompany the petition. The undersigned did not see an authorization to charge a deposit account for the fee either. The petition must be dismissed, accordingly. Any renewed petition filed must be accompanied by the $400.00 petition fee to be considered grantable.

The address cited on the petition differs from the address of record. Although a courtesy copy of the decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Michael A. Scaturro
Johnson & Scaturro
679 Third Place South
Garden City, NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAR 0 3 2008

OFFICE OF PETITIONS

Applicant: John Borgos
Appl. No.: 11/752,724
Filing Date: May 23, 2007
Title: OPTICAL VITAL SIGN DETECTION METHOD AND MEASUREMENT DEVICE
Attorney Docket No.: 21839-003001
Pub. No.: US 2007/0276265-A1
Pub. Date: November 29, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 5, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the front page of the patent application publication contains an error with respect to missing assignment information. In particular, Applicant requests that the recorded assignee information be included on the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected 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 instant request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the missing assignment information. The application was correctly published without the assignee information because neither the transmittal letter nor the application data sheet included the assignee information.[2]

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] See 37 CFR 1.215 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication, received on December 5, 2007, may constitute a "failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application." See 37 CFR 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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 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

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.
11/752,729	05/23/2007	Jong Soo Cho	YPL-PT025	4274

3624 7590 08/20/2009

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER	
MONTALVO, EVA Y	
ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
08/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11752729	5/23/07	CHO ET AL.	YPL-PT025

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER	
WAEL M. FAHMY	
ART UNIT	**PAPER**
2814	20090818

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Attached is the decision on the petiton under 37 CFR 1.84(a)(2) to accept color drawings filed on 12/11/08

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DECISION ON PETITION

In re Application of
Cho et al
Serial No. 11/752,729
Filed: 23 May, 2007
For: AU-AG BASED ALLOY FOR SEMICONDUCTOR PACKAGE

This is a decision on the request for acceptance of color drawings under 37 C.F.R. §§ 1.84(a)(2) and (b)(2) filed December 11, 2008.

The petition has been reviewed and it is found to be in compliance with the requirements as set forth in 37CFR §§1.84 (a)(2) and b (2). Black and white copies of the color drawings are provided in the application and triplicates of the color drawings of each figure have also been provided. The Brief Description of the Drawings section of the specification is amended to insert as the first paragraph to state

The file of this patent contains at least one drawing executed in color photograph. Copies of this patent with color drawing(s) will be provided by the U. S. Patent and Trademark Office upon request and payment of the necessary fee.

The required fee for the petition has been paid.

The Petition is **GRANTED**.

/Wael Fahmy/
Supervisory Patent Examiner
Art Unit 2814

Attorney address:

VOLPE AND KOENIG, P.C
UNITED PLAZA SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAR 0 3 2008

OFFICE OF PETITIONS

Applicant: John Borgos
Appl. No.: 11/752,756
Filing Date: May 23, 2007
Title: OPTICAL VITAL SIGN DETECTION METHOD AND MEASUREMENT DEVICE
Attorney Docket No.: 21839-004001
Pub. No.: US 2007/0287927-A1
Pub. Date: December 13, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 18, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the front page of the patent application publication contains an error with respect to missing assignment information. In particular, Applicant requests that the recorded assignee information be included on the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected 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 instant request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the missing assignment information. The application was correctly published without the assignee information because neither the transmittal letter nor the application data sheet included the assignee information.[2]

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).
[2] See 37 CFR 1.215 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication, received on December 18, 2007, may constitute a "failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application." See 37 CFR 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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 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

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Stainbrook & Stainbrook, LLP
412 Aviation Boulevard
Suite H
Santa Rosa, CA 95403

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FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Scott Schumacher :
Application No. 11/752,763 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. 01122.P1US : FROM RECORD
:

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 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Craig M. Stainbrook on behalf of all attorneys/agents associated with customer number 61894. All attorneys/agents associated with customer number 61894 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: Scott Schumacher
P.O. Box 7991
Incline Village, NV 86452

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
11/752,763	05/23/2007	Scott Schumacher	01122.P1US

CONFIRMATION NO. 4333

POWER OF ATTORNEY NOTICE

61894
STAINBROOK & STAINBROOK, LLP
412 AVIATION BOULEVARD
SUITE H
SANTA ROSA, CA 95403

Date Mailed: 02/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2008.

- 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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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Apfelbeck, et al. :
Application No. 11/752,767 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. 7742-3003-001 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 9, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file the issue and publication fees and a PTOL-85b issue fee transmittal form, in response to the Notice of Allowance mailed on December 16, 2008. This Notice set a statutory period for reply of three months. No reply having been received, the application became abandoned on March 17, 2009. A Notice of Abandonment was mailed on April 14, 2009.

Petitioner states that he did timely file a reply, in that petitioner submitted the issue and publication fees via a Credit Card Payment Form, sent via facsimile transmission to 571-273-6500, on March 5, 2009. However, this submission was deficient in two respects. First, the main facsimile number for the Office is 571-273-8300. While it is true that applicants are permitted in certain situations to send correspondence to different numbers, in the case of issue and publication fee submissions, that number is 571-273-2885. See MPEP 502.01(I)(B). Secondly, the Notice of Allowance is clear that the fee transmittal form (or its equivalent) must be submitted together with the issue and publication fees. A Credit Card Payment Form that is not retained by the Office, but rather is destroyed after processing, can not be said to be an equivalent.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Receipt of the issue and publication fees is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Apfelbeck, et al.	:	
Application No. 11/752,767	:	ON PETITION
Filed: May 23, 2007	:	
Attorney Docket No. 7742-3003-001	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 21, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file the issue and publication fees and a PTOL-85b issue fee transmittal form, in response to the Notice of Allowance mailed on December 16, 2008. This Notice set a statutory period for reply of three months. No reply having been received, the application became abandoned on March 17, 2009. A Notice of Abandonment was mailed on April 14, 2009. Applicants filed a petition to withdraw the holding of abandonment on June 9, 2009. However, the petition was dismissed in a decision mailed on July 13, 2009.

With the instant petition, petitioner has made the proper statement of unintentional delay and paid the petition fee. The required reply in the form of the issue and publication fee was previously filed with the petition on June 9, 2009.

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
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REISING ETHINGTON P.C.
P O BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Robert Apfelbeck	: DECISION ON REQUEST FOR
Patent Number	: 7594742	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/752,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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DICKE BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

MAILED

JAN 05 2010

OFFICE OF PETITIONS

In re Application of :
Martin Kaibel et al :
Application No. 11/752,785 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. I431.207.101/FIN911US

This is a decision on the petition, filed January 4, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 24, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2117 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application of :
Leonard Forbes :
Application No. 11/752,796 : DECISION ON PETITION
Filed: May 23, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 190022/US/4 :

This is a decision on the Petition Under 37 CFR 1.78(e) for Acceptance of Unintentionally Delayed Priority Claim filed January 9, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed 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.

This pending application was filed on May 23, 2007 and is a continuation of Application No. 11/220,202, filed September 6, 2005 which is a continuation of Application No. 10/298,626,

filed November 18, 2002 which is a continuation of Application No. 09/651,631, filed August 30, 2000.

A proper chain of copendency must exist from the instant nonprovisional application to nonprovisional Application No. 09/651,631. However, Application No. 11/220,202 does not have a proper claim for priority back to Applications No. 10/298,626 and 09/651,631. Specifically, the specification in Application No. 11/220,202 references only that the application is "related to" the two prior applications rather than referencing the fact that it is a continuation of Application No. 10/298,626 which is a continuation of Application No. 09/651,631. Without proper reference to the two prior applications in Application No. 11/220,202, the instant application cannot claim benefit of Applications No. 10/298,626 and 09/651,631.

Accordingly, before the instant petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a petition under 37 CFR 1.78(a)(3) in Application No. 11/220,202 for delayed claim for priority of Applications No. 10/298,626 and 09/651,631.

The issue fee in this case was paid on January 9, 2009. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

David Bucei
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Robert W. Christensen III	:	
Application No. 11/752,805	:	DECISION ON PETITION
Filed: May 23, 2007	:	TO WITHDRAW
Attorney Docket No. 16941.3.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael M. Ballard on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Robert W. Christensen III**
11547 W. 75th Avenue
Arvada, CO 80005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/752,805	05/23/2007	Robert W. Christensen III	16941.3.1

CONFIRMATION NO. 4403

POWER OF ATTORNEY NOTICE

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000038770861

Date Mailed: 11/16/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NOV 06 2008

FOOTHILL LAW GROUP
777 N. FIRST STREET, SUITE 325
SAN JOSE ,CA 95112

In re Application of :
Michael Kulisch :
Application No. 11/752,833 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. 07-105 :

This is a decision on the petition under 37 CFR 1.137(b), filed by August 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts (Notice) mailed June 20, 2007. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(f). On August 20, 2007 applicant filed a declaration and the requisite surcharge. However, since the declaration failed to identify the inventor by name, a Notice of Incomplete Reply was mailed on August 30, 2007. Thereafter, on May 19, 2008, a Notice of Abandonment was mailed. In response, on August 7, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration , as well as the $130 surcharge; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed August 7, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Philip Barber, et al. :
Application No. 11/752,840 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. 021822-003410US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 12, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on 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: SLATER & MATSIL, LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

UNITED STATES PATENT AND TRADEMARK OFFICE

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IPSG, PC
PO BOX 700640
SAN JOSE, CA 95170-0640

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
John Difonzo, et al.
Application No. 11/752,850
Filed: May 23, 2007
Attorney Docket No. 4951US1/APPL-P024

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 5, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to IPSG, PC has been revoked by the assignee of the patent application on December 30, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO CA 95015-1687

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IPSG, P.C.
P.O. Box 700640
San Jose, CA 95170-0640

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
John DiFonzo et al.	:	
Application No. 11/752,854	:	DECISION ON PETITION
Filed: May 23, 2007	:	TO WITHDRAW
Attorney Docket No. P4952US1/APPL-P025	:	FROM RECORD
	:	

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 5, 2010.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 62650 have been revoked by the assignee of the patent application on December 30, 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: Beyer Law Group LLP/Apple Inc.
P.O. Box 1687
Cupertino, CA 95015-1687

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
HURWITZ, et al. :
Application No. 11/752,865 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. **5368.06 (SMC)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **CARR & FERRELL, LLP** has been revoked by the assignee of the patent application on May 28, 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 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PETERS VERNY, LLP**
425 SHERMAN AVENUE, SUITE 230
PALO ALTO, CA 94306

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INVITROGEN CORPORATION
C/O INTELLEVATE
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MINNEAPOLIS, MN 55402

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Halbleib, et al. :
Application No. 11/752,869 : DECISION GRANTING PETITION
Filed: May 23, 2007 :
Attorney Docket No. IVGN 437.1 CON :

This is a decision on the petition under 37 CFR 1.57 filed July 19, 2007, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed June 28, 2007. The petition will be treated under 37 CFR 1.53.

On May 23, 2007, the application was deposited.

On June 28, 2007, the Office of Initial Patent Examination mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on July 19, 2007. Petitioner argues that the application should be accorded a filing date of May 23, 2007, because although drawings were omitted from the papers filed May 23, 2007, a priority claim was present on that date claiming the benefit of an application that contained drawings.

It has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that several claims in the disclosure are method and process claims. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of May 23, 2007.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date May 23, 2007, and an indication in Office records that no drawings were present on filing. Prior to the first action of the merits, a preliminary amendment should be filed requesting entry of the omitted drawings.

The petition fee of $400.00, will be refunded, in due course.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Carr & Ferrell, LLP
2200 Geng Road
Palo Alto, CA 94303

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JUN 0 9 2008

In re Application of :
Johnathan Ephraim David Hurwitz et al. :
Application No. 11/752,887 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. PA4149US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 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 Brent K. Whitlock and all attorneys/agents of record has been revoked by the assignee of the patent application on May 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Peters Verny, LLP
425 Sherman Avenue, Suite 230
Palo Alto, CA 94306

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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
11/752,887	05/23/2007	Jonathan Ephraim David Hurwitz	PA4149US

CONFIRMATION NO. 4552

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

OC000000030375987

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/28/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LUNDEEN & LUNDEEN, PLLC
PO BOX 131144
HOUSTON, TX 77219-1144

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of
James Alan Estes
Application No. 11/752,892
Filed: May 23, 2007
Attorney Docket No. MOT-06

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 2, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before October 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 2, 2008. A Notice of Abandonment was mailed on October 28, 2008. On February 2, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 6/2/2009
Patent No. : 7,534,949 B1
Serial No. : 11/752,892
Inventor(s) : Estes
Issue Date : May 19, 2009
Title : **ACOUSTIC SCULPTURE**
Doc./File No. : **MOT-06**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged errors in your request, Inspection of the file of the application for the patent reveals that column 7, line 29, claim 2,in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of 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 foregoing, your request for certificate of correction is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch accompanied by the appropriate fee which is presently $100.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

LUNDEEN & LUNDEEN, PLLC
PO BOX 131144
HOUSTON TX 77219-1144

ecw

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www.uspto.gov

FISH & RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
MOFFITT, et al. :
Application No. 11/752,895 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. **06-01569-01** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 19, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that **FISH & RICHARDSON, PC** does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VISTA IP LAW GROUP LLP**
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

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Vista IP Law Group, LLP
2040 Main Street, 9th Floor
Irvine, CA 92614

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APR 11 2008

OFFICE OF PETITIONS

In re Application of :
Michael A. Moffitt :
Application No. 11/752,898 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. 06-01568-01 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bryant R. Gold and Laura Haburay Bishop does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bryant R. Gold
Laura Bishop
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Townsend and Townsend andCrew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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APR 11 2008

OFFICE OF PETITIONS

In re Application of

Lieyi Fang et al.
Application No. 11/752,926
Filed: May 24, 2007
Attorney Docket No. 025748-000410US

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 28, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

cc: Lieyi Fang
Room 101, Building 2
690 Bi Bo Road
Zhangjiang Hi Tech Park
Shanghai, China 201203

cc: Jones Day
1755 Embarcadero Road
Palto Alto, CA 94303

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MAIL

JAN 15 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

WHOFFMAN WARNICK LLC
75 STATE ST
14 FL
ALBANY NY 12207

In re Application of: Toshio **ASAMI**
Application No. 11/752,967
Filed: May 24, 2007

For: **SYSTEM FOR SENDING ELECTRONIC MAIL**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 17, 2008, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of the latest office actions (other than "Decision to Grant a Patent") from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ricky Ngo 571-272-3139.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Ricky Ngo/

Ricky Ngo
Supervisory Patent Examiner, Technology Center 2400
571-272-3139

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

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

COPY MAILED

JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Steve Alan Schoenbert, et al. :
Application No. 11/752,971 : DECISION ON PETITION
Filed: May 24, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. SIXN-4738 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 20, 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 Jack P. Friedman'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.

This application is being referred to the Office of Initial Patent Examination for processing.
This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/753,041	05/24/2007	Akira Okada	JP920060014US1	4860

27431 7590 09/15/2008

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
09/15/2008	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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SEP 12 2008

TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: AKIRA OKADA
Application No. 11/753,041
Filed: May 24, 2007
For: GENERATING FUNCTIONAL TEST SCRIPTS

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 17, 2008, to make the above-identified application special.

The petition is **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S.

patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

_____

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACKSON & CO., LLP
6114 LASALLE AVENUE
#507
OAKLAND, CA 94611-2802

COPY MAILED

DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Peter Corcoran et al. :
Application No. 11/753,098 : DECISION ON PETITION
Filed: May 24, 2007 : TO WITHDRAW
Attorney Docket No. FN156 : FROM RECORD
:

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 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kung Oh and all attorneys/agents of record has been revoked by the assignee Fotonation Vision Limitation of the patent application on November 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is no outstanding Office action 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: FotoNation, Inc.
IP Department
800 Airport Boulevard
Suite 522
Burlingame, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/753,098	05/24/2007	Peter Corcoran	FN156

CONFIRMATION NO. 4969

POWER OF ATTORNEY NOTICE

30349
JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

OC000000026976945

Date Mailed: 11/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/27/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/sareebuddin/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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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
11/753,098	05/24/2007	Peter Corcoran	FN156

CONFIRMATION NO. 4969

POA ACCEPTANCE LETTER

72104
FotoNation, Inc.
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

OC000000026976994

Date Mailed: 11/30/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/27/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/sareebuddin/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/753,099	05/24/2007	Chiaki OHIGASHI	P31097	4971

52123 7590 04/30/2010
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
FREEMAN, SHEMA TAIAN	
ART UNIT	**PAPER NUMBER**
2854	

NOTIFICATION DATE	DELIVERY MODE
- 04/30/2010 -	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):

gbpatent@gbpatent.com
pto@gbpatent.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
Chiaki Ohigashi, et al. :
Application No. 11/753099 : DECISION ON REQUEST
Filed: May 24, 2007 : FOR SUSPENSION
For: **PRINTING PLATE MATERIAL, MANUFACTURING METHOD OF THE SAME, AND PLATE-MAKING METHOD USING THE SAME** :

This is a decision on applicant's request for suspension filed March 22, 2010.

MPEP § 1.103 Suspension of action by the Office, states in part:

(a) *Suspension for cause*. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the request reveals that while Applicants provided the necessary fee and requested a suspension for 6 months, they failed to provide any explanation that would constitute "good and sufficient cause" for suspension of the instant application. Only general statements about Applicants being currently in negotiations to sell technology which includes the subject matter of the present application were provided. No good and sufficient reasons were provided as to why the instant application needs to be suspended for six months.

Therefore, Applicants' request for a suspension under 37 C.F.R. §1.103 is **DISMISSED**. Should applicant desire reconsideration of this decision, he/she should supplement this petition with a showing of good and sufficient cause for the instant application to be suspended. No further petition fee is required.

The application file will be forwarded to the examiner of record and prosecution will proceed in its normal course.

/Judy Nguyen/
Supervisory Patent examiner, Art Unit 2854

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/753,099	05/24/2007	Chiaki OHIGASHI	P31097	4971

52123 7590 05/11/2010
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
FREEMAN, SHEMA TAIAN	
ART UNIT	**PAPER NUMBER**
2854	

NOTIFICATION DATE	DELIVERY MODE
05/11/2010	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
Chiaki Ohigashi, et al. :
Application No. 11/753099 : DECISION ON REQUEST
Filed: May 24, 2007 : FOR SUSPENSION
For: **PRINTING PLATE MATERIAL, MANUFACTURING METHOD OF THE SAME, AND PLATE-MAKING METHOD USING THE SAME** :

This is a decision on applicant's request for suspension filed March 22, 2010.

MPEP § 1.103 Suspension of action by the Office, states in part:

> (a) *Suspension for cause*. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
>
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the request reveals that while Applicants provided the necessary fee and requested a suspension for 6 months, they failed to provide any explanation that would constitute "good and sufficient cause" for suspension of the instant application. Only general statements about Applicants being currently in negotiations to sell technology which includes the subject matter of the present application were provided. No good and sufficient reasons were provided as to why the instant application needs to be suspended for six months.

Therefore, Applicants' request for a suspension under 37 C.F.R. §1.103 is **DISMISSED**. Should applicant desire reconsideration of this decision, he/she should supplement this petition with a showing of good and sufficient cause for the instant application to be suspended. No further petition fee is required.

The application file will be forwarded to the examiner of record and prosecution will proceed in its normal course.

/Judy Nguyen/
Supervisory Patent examiner, Art Unit 2854

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/753,099	05/24/2007	Chiaki OHIGASHI	P31097	4971

52123 7590 06/23/2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
FREEMAN, SHEMA TAIAN	
ART UNIT	**PAPER NUMBER**
2854	

NOTIFICATION DATE	DELIVERY MODE
06/23/2010	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
Chiaki Ohigashi, et al.
Application No. 11/753,099
Filed: May 24, 2007
For: **PRINTING PLATE MATERIAL, MANUFACTURING METHOD OF THE SAME, AND PLATE-MAKING METHOD USING THE SAME**

: DECISION ON REQUEST FOR SUSPENSION

This is a decision on the request for reconsideration, filed May 6, 2010, requesting that the decision dismissing the request for suspension under 37 C.F.R. §1.103(a) mailed April 30, 2010 be reconsidered and granted. The request is before the Director of Technology Center 2800 for a decision.

The request is DENIED.

Petitioner asserts that "[i]n view of the ongoing negotiations to sell technology which includes the subject matter of the present application, the current owner of the present application believes that it is inappropriate to provide instructions for prosecuting the present application, as it may prejudice the potential new owner" and that this is good and sufficient reason for suspending action. It is further asserts that in view of "the Office to Comment 16, of the "Changes to Implement 20-Year Patent Term and Provisional Applications," Billing Code 3510-16, 37 C.F.R. Parts 1 and 3 (copy of relevant portions submitted herewith). As noted in Comment 16, the Office indicates that "Section 1.103(a) refers to suspension of action as a result of a request by applicant. If applicant wishes to suspend prosecution and thereby reduce his/her term of protection, applicant should be permitted to do so"" it is respectfully requested that action be suspended for the above-identified application.

Applicant's request, received May 6, 2010, for suspension of action in this application under 37 C.F.R. §1.103(a), is **denied** as being improper. Action cannot be suspended in an application at applicant's request without a showing of good and sufficient cause. *See* MPEP § 709.

Suspensions of an action by the Office is found in 37 C.F.R. §1.103 - Suspension of action by the Office, which states in part:

> (a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Once prosecution of a patent application has started, a patent applicant may request suspension of action under 37 C.F.R. §1.103(a). The granting of such request is based on the showing of good and sufficient cause for suspension of action and requisite fee.

Good and sufficient cause includes a reason(s) that would have an effect on the prosecution of an application. For example, a good and sufficient cause may be the belief by an applicant that the Office does not possess all of the information necessary to properly examine the application but more time is required to obtain such information, or a temporary and unavoidable unavailability of an inventor, an applicant, and/or representative of applicant whose input and participation in the prosecution of the application are critical. A good and sufficient cause must relate to the merits of the prosecution of an application and applicant's right to a patent.

Petitioner asserts that the current owner believes that it is inappropriate to provide instructions for prosecuting the instant application due to ongoing negotiations to sell technology which includes the subject matter of the instant application as it may prejudice the potential new owner.

A decision not to prosecute or not to provide instructions for prosecuting an application is a business decision that does not directly affect the merits of the prosecution or its outcome or the applicant's right to a patent. This decision appears to be a business decision based on whether the application worth more unexamined or examined in a business transaction. This decision is not a good and sufficient reason that supports suspension of action since it does not affect the merits of the prosecution nor does it adversely affect applicant's right to a patent.

Regarding the assertion that instructions for prosecuting the application by the current owner may prejudice the potential new owner. Petitioner fails to specify the nature of the potential prejudice and how it affects the current owner's ability to assist in prosecution of the application. While it is not clear why and in what way instructions by the current owner may prejudice the potential new owner, the prosecution and the determination of patentability the subject matter disclosed and claimed in the instant application are not considered to affect the potential new owner any differently than they affect the current owner.

Comment 16 of the "Changes to Implement 20-Year Patent Term and Provisional Applications," Billing Code 3510-16, 37 C.F.R. Parts 1 and 3 indicates that a suspension of action must be requested by the applicant and refers to 37 C.F.R. §1.103(a) as the rule permitting suspension of action. Comment 16 does not imply that suspension is automatically granted upon filing the request nor does it modify 37 C.F.R. §1.103(a) to render moot the requirement for "good and sufficient cause." As such, Comment 16 does not and cannot be interpreted as a waiver of the required showing of good and sufficient cause but must properly be interpreted as permitting suspension upon a satisfactory showing of good and sufficient cause under 37 C.F.R. §1.103(a).

For the above-stated reasons, the request for suspension of action due to on going negotiation to sell technology and potential prejudice to any potential new owner must be denied.

With respect to the granting of the petition to suspend in the April 23, 2010 communication, there is no record of such communication in this file. That communication was an automatically generated response and was inadvertently sent in error. Such automatically generated communication does not apply to the petition filed under 37 C.F.R. 1.103(a). Hence, the communication dated April 23, 2010, and received by applicant, is hereby vacated.

The application file is being returned to the examiner of record and prosecution will proceed in its normal course.

Inquiries regarding this decision should be directed to Judy Nguyen, Supervisory Patent Examiner, at (571) 272-2258.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Juliu HORVATH :
Application No. 11/753,122 :
Filed: May 24, 2007 :
Attorney Docket No. **022180-9002-00** :

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Glen A. Wietzer on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves
Petitions Examiner, Office of Petitions

cc: **RASMUSSEN FOOTWEAR, LLC**
5900 S. MOORLAND ROAD
BERLIN, WI 53151

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/21/2010

Applicant	: Michael W. Minnick	: DECISION ON REQUEST FOR
Patent Number	: 7614419	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **10** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUL 12 2007

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

In re Application of
Michael F. Clarke
Serial No.: 11/753,191
Filed: May 24, 2007
Attorney Docket No.: UM-14044

: 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 May 24, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 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 U.S.C. 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 U.S.C. 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 U.S.C. 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 U.S.C. 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 U.S.C. 103(c).

REVIEW OF FACTS

The conditions I.1- II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5-6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of MPEP § 708.02, 5 and 6, a review of the Pre-examination search shows that class 435 was searched, but that class 424, where antibodies would be classified, was not searched. See for example US2006/0210473 A1, classified in class 424/001.490. Nor does the term antibody appear in any other search logic. Thus the search is incomplete.

In view of the above deficiencies the search and the Pre-exam Support Document are defective or incomplete and need to be revised or updated.

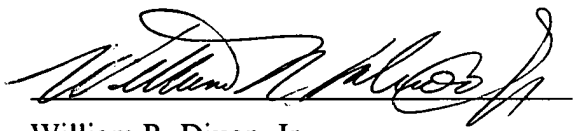
DECISION

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, 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 William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHLUMBERGER TECHNOLOGY CORPORATION - HCS
200 GILLINGHAM LANE, MD-2
SUGAR LAND, TX 77478

Mail Date: 04/20/2010

Applicant	: Todor K. Sheiretov	: DECISION ON REQUEST FOR
Patent Number	: 7661475	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **61** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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McCarthy Tetrault LLP
Box 48
Suite #4700 Toronto Dominion Bank Tower
TORONTO, ON M5K 1E6
CANADA

Mail Date: 04/23/2010

Applicant	: Omar BARAKE	: DECISION ON REQUEST FOR
Patent Number	: 7631126	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,194	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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McCarthy Tetrault LLP
Box 48
Suite #4700 Toronto Dominion Bank Tower
TORONTO, ON M5K 1E6
CANADA

Mail Date: 05/18/2010

Applicant : Omar BARAKE
Patent Number : 7631126
Issue Date : 12/08/2009
Application No: 11/753,194
Filed : 05/24/2007

: 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 **211** 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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Vedder Price/NSC
222 N. LASALLE STREET
SUITE 2400
CHICAGO, IL 60601

Mail Date: 04/27/2010

Applicant	: Adam Fish	: DECISION ON REQUEST FOR
Patent Number	: 7605635	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/753,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **162** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak MI 48067

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Buck and Dixon :
Application No. 11/753,271 : DECISION ACCORDING STATUS
Filed: May 24, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 060726.00160 :

For: **HIGH VOLTAGE BATTERY IMPACT PROTECTION SYSTEM FOR AUTOMOTIVE VEHICLE**

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 31, 2009.

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-identified application was filed on May 24, 2007, without a properly executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 20, 2007, 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 October 11, 2007, with a request for an extension of time within the second month. The petition was dismissed by a decision mailed December 31, 2008.

Petitioner has shown that inventor Dixon has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Patent Application Processing for further processing.

Questions regarding the request to change correspondence address should be directed to the Office of Patent Application Processing. Telephone inquiries concerning *this decision* should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
David B. Quick
Ice Miller LLP
One American Square, Suite 2900
Indianapolis, Indiana 46282-0200

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Royal Oak MI 48067

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DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Buck and Dixon :
Application No. 11/753,271 : DECISION REFUSING STATUS
Filed: May 24, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 060726.00160 :

For: **HIGH VOLTAGE BATTERY IMPACT PROTECTION SYSTEM FOR AUTOMOTIVE VEHICLE**

This is a decision on the petition under 37 CFR 1.47(a), filed October 11, 2007.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on May 24, 2007, without a properly executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 20, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on October 11, 2007, with a request for an extension of time within the second month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (3) as set forth above.

Section 409.03(d) of the *Manual of Patent Examining Procedure* 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 papers should be sent to the last known address of the nonsigning inventor . . .
>
> 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.

The statement offered by Michael Shariff indicates that the application papers were presented by e-mail to inventor Dixon. A review of the documentary evidence filed in support of the petition reveals that the e-mail communication requesting Mr. Dixon provide a contact telephone number was sent to dixonjeff@comcast.net. The reply e-mail from inventor Dixon providing the contact telephone number was sent from jeffmd3202@yahoo.com. It is not clear to which e-mail address the application papers were sent as no copy of the e-mail that indicates the application papers were attached was provided with the petition. Further, inventor Dixon appears to be using two e-mail addresses; unless petitioner is sending the application papers to both addresses, there is no way to confirm that inventor Dixon is receiving the application papers. In addition, to sending the application papers to both e-mail addresses, it is requested that petitioner mail a complete copy of the application papers to the last known address for

inventor Dixon or demonstrate that petitioner is not able to locate the most current address for inventor Dixon. See MPEP 409.03(d).

As to item (3), the fee for the instant petition is $200.00. The petition fee must accompany the renewed petition or the petition will be summarily dismissed.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN NC 28563-0867

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Pollack et al.	:	
Application Number: 11/753318	:	DECISION ON PETITION
Filing or 371(c) Date: 05/24/2007	:	
Attorney Docket Number: 060885-00078.D003CON1	:	

This is a decision on the petition under 37 CFR 1.182, filed February 5, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

Receipt of the $400.00 petition fee is acknowledged. No further fee is due in connection with this petition.

This application is being referred to Technology Center AU 1637 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/753,318	05/24/2007	1637	425	060885-00078.D003CON1	9	1

CONFIRMATION NO. 5349

CORRECTED FILING RECEIPT

64199
WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN, NC 28563-0867

OC000000041094496

Date Mailed: 04/15/2010

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)

Michael G. Pollack, Durham, NC;
Vamsee K. Pamula, Durham, NC;
Richard B. Fair, Durham, NC;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 11/343,284 01/30/2006

Foreign Applications

If Required, Foreign Filing License Granted: 06/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/753,318**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHODS FOR NUCLEIC ACID AMPLIFICATION ON A PRINTED CIRCUIT BOARD

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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Winston & Strawn, LLP
Patent Department
1700 K Street, NW
Washington, DC 20006

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In re Application of	:	
Marvin Sackner et al.	:	
Application No. 11/753,337	:	DECISION ON PETITION
Filed: May 24, 2007	:	TO WITHDRAW
Attorney Docket No. 85167-67290	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Howard Baker – VivoMetrics, Inc.
c/o Ralph C. Francis
Francis Law Group
1942 Embarcadero Street
Oakland, CA 94606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RICHARD A. PAIKOFF, ESQ.
DUANE, MORRIS LLP
ONE LIBERTY PLACE
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Motchenbacher, et al. :
Application No. 11/753,342 : DECISION
Filed: 24 May, 2007 :
Attorney Docket No. D4706-00095 :

This is a decision on the petition filed on 10 August, 2007, to obtain a filing date for the instant application under 37 C.F.R. §1.53.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 24 May, 2006.

On 21 June, 2007, the Office of Patent Application Processing (OPAP) (formerly, the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Nonprovisional Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawing as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 10 August, 3007, Petitioner filed the instant petition with, *inter alia*, a statement that "[t]his application contains method claims."

As discussed below, the presence of one or more method claims is controlling.

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 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]

ANALYSIS

A search of the official file reveals that:

- Petitioner does not contest that the drawing(s) was/were not present upon deposit; and now specifically avers that the application was deposited without drawings; and

- As remarked by Petitioner, a brief review of the application claims reveals one or more method claims (e.g., Claims 1, 2, 3), and so there is at least one method/process claim present in the application.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

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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).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

In view of the foregoing, the Notice mailed on 21 June, 2007, hereby is withdrawn to the extent that it indicates no filing date will be granted.

CONCLUSION

The petition is **granted in part** to the extent that the application will be accorded the filing date of 24 May, 2007, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded to Deposit Account 04-1679. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is being referred to (OPAP) (formerly, OIPE) to be processed for correction of the filing date to 24 May, 2007, with the 10 pages of specification (description, claims, abstract) deposited on 24 May, 2007, and **no** drawings as the original disclosure.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. '1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner=s/Caller=s action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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JUN 22 2007

TECHNOLOGY CENTER 3600

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

In re application of
Randy Schwartz et al.
Application No. 11/753,345
Filed: May 24, 2007
For: METHOD AND SYSTEM FOR DEVELOPING AND MANAGING A COMPUTER-BASED MARKETING CAMPAIGN

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on May 24, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.2, II.6.2, II.6.3, II.6.4, and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, with respect to the classification search, in addition to the areas already searched, the search needs to include a search of 705/14 (where the invention is classified), which is directed towards advertising systems. Further, Google, specifically Google Scholar, is the only Non-Patent Literature (NPL) listed in the petition as searched. While this is a sufficient Internet Search tools to utilize, Applicant should also search other NPL Resources, such as those listed at the USPTO website. The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at:
http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm.

Thus, the NPL searches here should at least include the databases as ABI/Inform and Gale Group Marketing & Advertising Reference Service directly related to marketing and advertising.

Also with respect to II.5.2, the petition lacks sufficiently specific search logic. While the search logic provided for the EAST database is directed to a broad concept of the claim, this search logic does not encompass all of the features of both the independent and dependent claims. For example, the Support Document asserts in section IV, page 16, that the feature not taught by the identified prior art is "automatically generating an advertising production sheet comprising at least one of the keywords and a creative, wherein the creative comprises one or more terms that are relevant to the at least one keyword". However, the search logic provided does not include terms such as "production sheet" or any proximity operators (i.e. near, with) that would allow specific terms of the claimed invention to be discovered in the prior art. Further, the dependent claims add additional features that do not appear in proper search queries. Especially since the Support Document asserts separate patentability for dependent claims 3-5, 7-8, 11, 14, and 17 in section IV, pages 16-17, there should be search logic provided to encompass the features of these claims, such as the terms "develop$6 near3 keyword$", "taxonom$4", "relevan$4 near2 term$4", "synonym$2", etc. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at:
http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:

Independent:
((analy$6) same (content$2 or term$4) same (product$ or service$3)) and ((generat$4 or develop$5) same keyword$) and ((generat$4 or produc$4) same ((advertisement$ or ad$) or (production$ with sheet$))) and extract$7
Dependent:

(template$) and (synonym$ same (keyword$ or term$)) and (pric$4) and (term$ same occurrence$)

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example and a starting point for applicant's assistance. Further, for the same reasons as above, the search logic used with respect to the Google database search and the Gbesp@cenet search is not sufficiently specific as to encompass all the features of both the independent and dependent claims.

As to condition II.6.2, there currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims (not just the independent and some selected dependent claims) that are disclosed in each of the cited references, specifying where each of the limitations (or portions thereof) are disclosed in each of the references. Applicant must specify where in each of the cited references the particular claim limitations are found. Any reference which teaches any portion of a claim limitation must be so identified even if the reference does not teach the entirety of the limitation. In the current petition, the explanation does not discuss each of the claims, including all dependent claims. For example, with regards to Agarwal et al. (U.S. 2005/0222901) on pages 10-11 of the Accelerated Examination Support Document, claims 6-8 and 11 are not addressed. A discussion concerning what limitations and portions of limitations are taught by the cited references should be included with respect to the omitted dependent claims, especially since claim 6 is not discussed in section IV, the detailed explanation of patentability. Further, Harik (U.S. 2005/0065806) does not address claims 3-4, 6, 8, 10-11, or 17 on pages 12-14 of the Accelerated Examination Support Document. Again, claims 6 and 10 are not discussed in the detailed explanation of patentability, it is not clear if Harik addresses these limitation or portions thereof.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims. While the explanation provided for the independent claims appears to be acceptable, as well as the explanation provided for dependent claims 3-5, 7-8, 11, 14, and 17, the explanation does not include a discussion of dependent claims 2, 6, 9-10, 12, 15, or 18. It is noted that the discussion concerning claim 11 contains a typographical error, stating "as required by dependent claim 13", which should be claim 11. Further, while the explanation of patentability includes a statement that "For at least these reasons, claims 1-18 are patentable over Agarwal et al., Harik and Fikes et al.", the explanation of patentability does not sufficiently specify whether dependent claims 2, 6, 9-10, 12, 15, or 18 are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable.

As to condition II.6.4, the concise statement of utility needs to assert a utility or benefit resulting from the use or practice of the invention. While the statement provided states what the invention does and describes its operation, the statement is deemed to be inadequate because it does not assert a utility or benefit resulting from the use or practice of the invention. Examples were provided, such as "increases efficiency", "reduces costs", etc.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation (including dependent claims) the petition needs to identify specific passages, or at least a single paragraph where each limitation is supported. Specifically, the current petition does not identify where each claim limitation finds support in the written description, but instead lists figures and paragraphs that support the claim as a whole. Similar is true for the parent applications of 11/381,872 and 11/194,381.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 6/20/07

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SEP 06 2007

TECHNOLOGY CENTER 3600

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

In re application of : **DECISION ON PETITION**
Randy Schwartz et al. : **TO MAKE SPECIAL FOR**
Application No. 11/753,345 : **NEW APPLICATION**
Filed: May 24, 2007 : **UNDER 37 CFR 1.102**
For: METHOD AND SYSTEM FOR DEVELOPING AND MANAGING A COMPUTER-BASED MARKETING CAMPAIGN

This is a decision on the renewed petition filed on July 19, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 CFR 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 to 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 CFR 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.

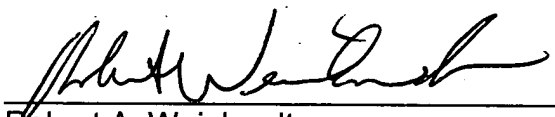
On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 CFR 1.181, 182 or 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 8/24/07

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Paper No.

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas TX 75202

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of :
Yi-Ming Sheu et al. :
Application No. 11/753,374 : DECISION ON PETITION
Filing Date: May 24, 2007 :
Attorney Docket Number: 2006-0602 :
/ 24061.910 :
Title: SEMICONDUCTOR DEVICE WITH :
RAISED SPACERS :

This is a decision on the petition filed August 7, 2007, requesting that the above-identified application be accorded a filing date of May 24, 2007, with a description of Figure 1 as part of the original disclosure of the application.

The application was deposited on May 24, 2007. However, on June 14, 2007, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers - Filing Date Granted (notice), indicating that the application had been accorded a filing date, and that it appeared that Figure 1 had been omitted on filing. The notice set a two-month period for response.

With the present petition, Petitioner has included a portion of the petition fee. The remainder of the same has been charged to Petitioner's Deposit Account, as authorized in the petition. With this petition, Petitioner has set forth:

> The Notice states that a description of Figure 1 was omitted from the application.

This does not appear to be correct. The notice indicates that Figure 1 appears to have been omitted on filing. The notice does not appear to contain any reference to the description of Figure 1.

The petition does not appear to address Applicant's failure to include Figure 1 on filing. Accordingly, the petition

must be **DISMISSED.**

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. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

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[5]. 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

---

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
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

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DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADEPHIA, PA 19103-4196

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In re Application of	:	
Robert E. BLAKE, et al	:	
Application No. 11/753,388	:	DECISION ON PETITION
Filed: May 24, 2007	:	TO WITHDRAW
Attorney Docket No. H28800	:	FROM RECORD
	:	

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 **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

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OAKLAND, CA 94611-2802

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Mihai Ianchulescu et al. :
Application No. 11/753,397 : DECISION ON PETITION
Filed: May 24, 2007 : TO WITHDRAW
Attorney Docket No. FN195 : FROM RECORD
:

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 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kun Oh and all attorneys/agents associated with customer number 30349 has been revoked by the assignee of the patent application on November 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There are no outstanding Office actions 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: FotoNation, Inc.
IP Department
800 Airport Boulevard
Suite 522
Burlingame, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO, CA 92121

Mail Date: 04/21/2010

Applicant	: Andreas KOTULLA	: DECISION ON REQUEST FOR
Patent Number	: 7633922	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **403** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 04/20/2010

Applicant	: Zhigang Zak Fang	: DECISION ON REQUEST FOR
Patent Number	: 7569179	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,417	: OF WYETH
Filed	: 05/24/2007	:
		:

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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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
LAKEMAN, Russell E: :
Application No. 11/753,418 : DECISION ON PETITION
Filed: May 24, 2007 : TO WITHDRAW
Attorney Docket No. **020843-003810US** : FROM RECORD
:

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 18, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Jesus Del Castillo on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated 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 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: **WAVEZERO, INC.**
818 KIFER ROAD
SUNNYVALE, CA 94086

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Jean-Francois Guirmand :
Application No. 11/753,423 : ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. 2800.691US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed June 13, 2007, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. 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) was obtained. Accordingly, the application became abandoned on August 14, 2007. On February 13, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for review of the drawings provided February 13, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/09

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 11753460 Patent No.: 7508723 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2827

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Katsuharu SUZUKI	: DECISION ON REQUEST FOR
Patent Number	: 7650582	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	: Johnny Zhong	: DECISION ON REQUEST FOR
Patent Number	: 7561766	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,499	: OF WYETH
Filed	: 05/24/2007	:
		:

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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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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OFFICE OF PETITIONS

In re Application of :
Ge Yang et al. :
Application No. 11/753,501 : DECISION GRANTING PETITION
Filed: May 24, 2007 :
Attorney Docket No. NVIDP499/P003145 :

This is a decision on the petition, filed July 30, 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 present nonprovisional application is the subject of a foreign or international application filed on May 21, 2008. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is November 27, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1540.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2816 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/753,501	05/24/2007	Ge Yang	NVIDP499/P003145

CONFIRMATION NO. 5673

28875
Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

NONPUBLICATION RESCISSION LETTER

Date Mailed: 08/14/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/27/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/pffaison ball/

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
7700 BONHOMME, STE 400
ST. LOUIS MO 63105

JUN 22 2007

In re Application of:	:	
Mehran Aminzadeh et al.	:	DECISION ON PETITION TO
Serial No.: 11/753,539	:	MAKE SPECIAL FOR NEW
Filed: May 24, 2007	:	APPLICATION UNDER 37
Docket No.: 9062B-000032/US/COB	:	C.F.R. § 1.102 & M.P.E.P. § 708.2
Title: ANTENNA MODULE	:	

This is a decision on the petition filed on May 24, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. §1.102(d).

The petition to make the application special is 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.

Edward Westin

Edward Westin, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/753,539	05/24/2007	Mehran Aminzadeh	9062B-000032/US/COB	5739

28997 7590 11/21/2007
HARNESS, DICKEY, & PIERCE, P.L.C
7700 BONHOMME, STE 400
ST. LOUIS, MO 63105

EXAMINER	
HO, TAN	

ART UNIT	PAPER NUMBER
2821	

MAIL DATE	DELIVERY MODE
11/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. AMINZADEH ET AL.
Issue Date: N/A
Appl No.: 11/753,539
Filed: May 24, 2007
For: ANTENNA MODULE

DECISION GRANTING PETITION
37 CFR 1.48

NOV 21 2007

This is a decision on the petition under 37 CFR 1.48, filed May 24, 2007.

The petition is granted.

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821
Patent Examining Group 2800

HARNESS, DICKEY, & PIERCE, P.L.C
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ST. LOUIS, MO 63105

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OFFICE OF PETITIONS

SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

In re Application of	:	
Brian C. Giles	:	
Application No. 11/753,547	:	DECISION ON PETITION
Filed: May 24, 2007	:	TO WITHDRAW
Attorney Docket No. 53190.0100	:	FROM RECORD
	:	

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 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Laura J. Zeman on behalf of all attorneys/agents associated with customer number 20322. All attorneys/agents associated with customer number 20322 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brian C. Giles
1200 Palomino Road
Santa Barbara, CA 93105

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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
11/753,547	05/24/2007	Brian C. Giles	53190.0100

CONFIRMATION NO. 5750

POWER OF ATTORNEY NOTICE

20322
SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Date Mailed: 03/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 17 2008

MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK, NY 10017

In re Application of :
Sanjeev Koncherry SUSEELAN :
Application No. 11/753,564 : DECISION ON PETITION
Filed: May 24, 2007 : TO WITHDRAW
Attorney Docket No. KON-026 : 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 January 20, 2008.

The request is **APPROVED**.

A review of the file record indicates that Jennifer Meredith does not have power of attorney in this patent application, however, in accordance with 37 CFR 1.34, the signature of Ms. Meredith appearing on the correspondence shall constitute a representation.

In view of the present decision, Jennifer Meredith 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 be directed to the address indicated below 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

CC: SANJEEV KONCHERRY SUSEELAN
KONCHERRY HOUSE MAYIHARA,
P.O.CHERTHALA, ALAPPUZTHA (DIST.)
CHERTHALA, KERALA 688539
INDIA

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/753,564	05/24/2007	Sanjeev Suseelan Koncherry	KON-026

CONFIRMATION NO. 5778

POWER OF ATTORNEY NOTICE

30332
MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK, NY 10017

OC000000028868297

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/20/2008.

- 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.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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FISH & RICHARDSON, PC
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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazake, et al.	:	
Application No. 11/753,600	:	DECISION GRANTING PETITION
Filed: May 25, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-241002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 20, 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 13, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Gabriel Olander appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Gabriel Orlander desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

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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.*

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GABRIEL OLANDER
FISH & RICHARDSON, PC
1425 K STREET, NW
11TH FLOOR
WASHINGTON, DC 20005-3500

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of :
Brown, et al. : DECISION ON PETITION
Application No. 11/753,621 :
Filed: May 25, 2007 :
Atty. Dkt. No.: P31880 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 21, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

This application was held abandoned for failure to timely submit a proper reply to the Notice mailed June 22, 2007. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed March 7, 2008.

Petitioners argue that an extension of time and a proper response to the Notice were timely submitted on October 11, 2007.

Review of Office records reveals that the response received at the USPTO on October 11, 2007, while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 11/763,621.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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AUG 07 2007

TECHNOLOGY CENTER 3600

Nexsen Pruet, LLC
1441 Main St., 15th Floor
Columbia, SC 29201

In re application of : **DECISION ON PETITION**
Brian Joseph Hendrix et al. : **TO MAKE SPECIAL FOR**
Application No. 11/753623 : **NEW APPLICATION**
Filed: May 25, 2007 : **UNDER 37 CFR 1.102**
For: SYSTEM FOR FUNDING AN ORGANIZATION

This is a decision on the petition filed on May 25, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.2, II.6.3, and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. While the search logic provided for the MICROPAT database is directed to a broad concept of the claim, this search logic does not encompass all of the features of both the independent and dependent claims. For example, section 9(c) of the Support Document lists three factors that the Applicant considers novel, which include asset-back securitization (ABS), the use of a special purpose entity (SPE) with an insurable interest in the insured individuals, and the use of an internal rate of return (IRR) to verify that the cash flow from death benefits will retire the debt incurred and to fine tune the funding portion of the cash flow to meet the organizations needs. However, looking at the text searches performed in East, these concepts are not adequately searched. First, Applicant has overly limited the searches using quotations, so that terms like "securities" and "insurance" will not return variations like "securitization" or "insured", as listed in section 9(c) of the Support Document. Applicant should therefore remove the quotation marks and utilize truncation operators. Further, Applicant did not search SPE, special purpose entities, death benefits, cash flows, cash flow verification, or debt, along with other concepts of the independent claims, such as beneficiaries and premiums. Further, the dependent claims add additional features such as borrowing rates, loan repayment, and program costs that were not searched. This is specifically important because section 9(B) of the Support Document states that certain cited prior art references do not teach these concepts. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:

((life near2 insur$5) or (insurance near2 polic$5)) and insur$4 and (SPE$2 or (special adj1 purpose adj1 entit$3)) and (IRR or (internal adj2 rate$2 adj2 return$3)) and (ABS or (((asset-backed) or (asset adj1 backed)) near2 (securit$6))) and (death near2 benefit$2) and debt$4

Further, "plus" is not an operator in Espacenet and Google. The actual queries performed and search logic utilized with regards to these tools should be included in the pre-examination search document.

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example and a starting point for applicant's assistance. Further, for the same reasons cited above, the search logic used with respect to the Google database search and the eSp@cenet search is not sufficiently specific as to encompass all the features of both the independent and dependent claims. Further, "plus" is not an operator in eSp@cenet or Google. The actual queries performed and search logic utilized with regards to these tools should be included in the pre-examination search document.

Also with respect to II.5.2, it is noted that Google is the only Non-Patent Literature (NPL) listed in the petition as searched. While this is a sufficient Internet Search tool to utilize,

Applicant should also search other NPL Resources, such as those listed at the USPTO website. The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm. Thus, the NPL searches here should at least include the databases as Insurance Periodicals Index (IPI), JSTOR Journals, Financial Times, ABI/INFORM, which are directly related to insurance and financial matters.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references. In section 9(c) of the current Support Document, three factors are identified that are used to explain the patentability of the claimed invention. However, this is not sufficient because the explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. Section 9(c) of the current Support Document does not reference any specific claim numbers when discussing the patentability of the claimed invention. It does not specify how each independent claim is patentable over each of the cited references and further does not specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or that each of the dependent claims are not separately patentable. Therefore, the detailed explanation of claim patentability is not sufficient.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation (including each limitation in both the independent and dependent claims) the petition needs to identify specific areas of the specification, or at least a single paragraph, where each limitation is supported. Listing broadly a number of figures or paragraphs does not comply with what is required. In the current Support Document, Applicant states that support "is found at least in figures 1-11 of the present application". This does not comply with what is required because it does not reference any claims or claim limitations and does not identify specific areas of the specification where each limitation is supported.

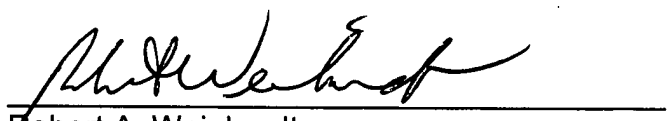
DECISION

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.

Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. No extension of time under 37 CFR 1.136(a) will be granted. 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 07/03/07

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TECHNOLOGY CENTER 3600

Michael A. Mann
Nexsen Pruet, LLC
Post Drawer 2426
Columbia, South Carolina 29202-2426

In re application of : **DECISION ON PETITION**
Brian Joseph Hendrix et al. : **TO MAKE SPECIAL FOR**
Application No. 11/753,623 : **NEW APPLICATION**
Filed: May 25, 2007 : **UNDER 37 CFR 1.102**
For: METHOD FOR FUNDING AN ORGANIZATION

This is a decision on the renewed petition filed on September 7, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 CFR 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 to 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 CFR 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 CFR 1.181, 182 or 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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt
Business Practice Specialist
Technology Center 3600

RW/jm: 11/5/07

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NEXSEN PRUET, LLC
PO DRAWER 2426
COLUMBIA SC 29202-2426

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In re Application of :
Hendrix et al. :
Application No. 11/753,623 : Decision On
Filed: May 25, 2007 : Withdrawal of Patent
For: SYSTEM FOR FUNDING AN ORGANIZATION : Application Publication
:

This is a response to the applicant's request made on December 1, 2008, requesting withdrawal of the publication, which published on November 27, 2008, for the above identified application due to the USPTO incorrectly processing the Nonpublication Request submitted on filing. Applicant in effect, request that the above-identified application be treated as an application that has **not** been published pursuant to 35 U.S.C. § 122(b) on November 27, 2008.

The request based on the facts in this application is dismissed to the extent indicated below:

A telephone interview was conducted with Michael A. Mann and the undersigned on December 12, 2008, wherein removing the publication from the Office website was discussed and it was agreed to not remove the improperly published application from the Office website.

The above-identified application has been published due to a processing error. Publication of this application was not provided for under 35 U.S.C. § 122(b) on January 25, 2007. Accordingly, no publication fee will be required if the above-identified application is allowed, unless the nonpublication request is rescinded.

If a Notice of Publication Fee Due (or a Notice of Allowance that requires a publication fee) is received by the applicant, applicant may submit a reply to the Notice stating that no publication fee is due because the application was published in error. The reply should be accompanied by a copy of this Letter.

Telephone inquiries specific to this decision should be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Matthew G. McKinney, Esq.
Suite 150
338 W. Morse Blvd.
Winter Park, FL 32789

MAILED SEP 18 2007

In re Application of: Benbassat
Application No.: 11/753,683
Filed: May 25, 2007
Title: MULTI FLAVOR BEVERAGE BOTTLE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 25, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 interpretation;

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

Initially it is noted that the Pre-examination Search Statement and the Examination support document are unsigned. Any future Pre-examination Search Statement and the Examination support document must include a proper signature.

The conditions I: 1-4 above are considered to have been met. The conditions II: 1-5, 5.3, 6, 6.1, and 6.6 above would have been met if the Pre-examination Search Statement and the Examination support document were signed. However, the petition fails to comply with conditions II: 5.1, 5.2, 6.2, 6.3, 6.4 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 two pages of PTO/SB/28 form, the "pre-examination search document" including pages 1-3; the "accelerated examination support document" comprising pages 1- 5, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

Regarding the requirements of section II elements 5.1 and 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 215 subclasses 6 and digest 8 as well as class 220 subclasses 501, 502, 23.8, 23.83, 507, 503, 505, and 662. With regard to the search listed for class 426, a review of the classification schedule indicates that subclasses 351 and 36787 do not currently exist. The keyword searches also appear to the deficient in that the order of default of the search terms used is not clear. For example in the L2 search (water or liquid and plastic and flavor), since both "or" and "and" are used in the search it is not clear whether ((water or liquid) and plastic and flavor) or (water or (liquid and plastic and flavor)) would have resulted from the search. The results would be different for these searches. It would also appear a search in Google in general along with Google Scholar would have been appropriate. Additionally, it would appear keywords such as "webbing", "lance", "poker", "piercer", "puncture", "slice", "cut", "stab", and "perforate" in various forms (e.g. lancing, lanced, etc) should be used in the keyword search since these features are discussed in the detailed explanation of patentability. It would also appear a search of other mixable substances such as medications, drink mixes, etc. should be done. The search should also not be limited to "bottle" since other containers such as cups, glasses, cans, jars, containers, receptacles etc. could be used. In addition, all previous searches should be updated.

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 each of the reference(s) and where the limitation is disclosed in each of the cited reference. 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", nor does it allow for grouping and general discussions. A grantable petition must delineate every limitation of every claim and identify where the equivalent limitation is disclosed in each piece of prior art cited on the IDS. As is published on www.uspto.gov/web/patents/accelerated/ in "Guidelines for Applicants under the new accelerated examination procedures"):

> *For each reference cited, the accelerated 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. Applicants should specify where in each of the cited references the particular claim limitations are found.*

This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.

Petitioner's submission is not specific enough and does not address all references. Only two of the 18 references cited on the IDS are discussed. The two references discussed are not discussed relative to each limitation in every claim. All cited references must be discussed relative to all limitations in all of the claims.

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). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. Independent claim 10 is not specifically discussed and does not include the same terms mentioned for patentability of claims 1 and 11. None of the dependent claims are discussed. Since the search and the identification of limitations disclosed by the references are deficient, it is not clear that the limitations discussed are not known. The detailed explanation of patentability should be re-evaluated after completion of the new search and evaluation of all references (both already cited and any newly found in the new search). For these reasons, the petition does not meet the requirement of section II, element 6.3

Regarding the requirements of section II element 6.4 outlined above, the petition fails to identify a concise statement of the utility of the invention as defined in each of the independent claims. A general statement directed to the overall concept of the invention is not specifically relating the utility to each of the independent claims as is required by the policy. Petitioner should reference all the independent claims specifically when discussing the utility of the invention.

Finally, regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and portions of text with respect to claim 1 as opposed to the required claim limitations in all claims.

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 Linda J. Sholl, TC 3700 Special Programs Examiner, at (571) 272-4391.

Linda J. Sholl
Special Programs 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.
11/753,717	05/25/2007	Carl MARTIN	adva0005	6044

25101 7590 05/04/2010

Philip D. Freedman PC
1449 Drake Lane
Lancaster, PA 17601

EXAMINER
RUSH, KAREEN KAY

ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
05/04/2010	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
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Philip D. Freedman PC
1449 Drake Lane
Lancaster PA 17601

In re Application of:
MARTIN, CARL
Serial No. 11/753,717
Filed: May 25, 2007
Docket: adva0005
Title: DEVICE AND METHOD FOR ACCESSING FLUID IN CONTAINER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed April 28, 2010 under 37 CFR 1.181 requesting withdrawal of the last non-final Office action mailed March 19, 2010 and issuance a corrected Office action.

The petition is Granted.

In finding petitioner's points of argument persuasive and to clarify the record, the requested relief is granted. The non-final Office action of March 19, 2010 is hereby withdrawn. The examiner has been requested to issue a corrected new non-final Office action in accordance with MPEP § 710.06.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3781 for issuance of a corrected Office action with the correct citation of the case law and inclusion of the omitted claim 14. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Robert Olszewski
Technology Center 3700

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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LEMPIA BRAIDWOOD LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Burns et al.	:	DECISION REFUSING STATUS
Application No. 11/753,738	:	UNDER 37 CFR 1.47(a)
Filed: 05/25/2007	:	
Attorney Docket No. 10010-06 RFS-05A	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 29, 2008. Applicant obtained an extension of time for response within the fifth month. Accordingly, the petition is filed timely.

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 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

The instant petition fails to satisfy item (1) above.

As to item (1), applicant failed to demonstrate that the non-signing inventor refused to sign the declaration. In the her Declaration of Fact, Karen Kaplan, a paralegal, stated that she forwarded a copy the application and declaration to Joy Burns, the non-signing inventor at her last known address via USPS First Class mail; however, Ms. Burns did not respond. Ms. Kaplan explained that she only recently obtained a valid e-mail address for Ms. Burn and emailed a copy of the application and declaration to her. Ms. Kaplan stated that on January 25, 2008, Ms. Burns responded positively to her by return e-mail, indicating she had received the documents sent by mail and that she would take care

of them early the following week. Ms. Kaplan asserted that Ms. Burns has not returned a signed declaration to her. Nonetheless, Ms. Kaplan indicated that she will continue to attempt to secure a signed declaration from Ms. Burns and will forward it to outside counsel for submission with the USPTO immediately upon receipt. A copy of the e-mail correspondence accompanies the present petition.

The Office notes that only 4 days have lapsed between the date of Ms. Burn's e-mail response and the date of filing the present petition. It is unclear from the current showing if Ms. Burns has constructively refused to execute the declaration. Accordingly, applicant has failed to show or provide proof that the non-signing inventor refused to sign the declaration. See MPEP 409.03(d).

To establish that the non-signing inventor refused to join in the application, applicant must show that a reasonable period has passed and the inventor has not responded to applicant's request to execute the declaration. If applicant has concluded that the non-signing 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. Applicant should submit any documentary evidence to support a refusal. If the non-singing inventor expressly refuses in writing or orally, that fact along with the time and place of the refusal and any document evidence supporting the refusal must be provided with any request for reconsideration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System – EFS Web of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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.
11/753,744	05/25/2007	Naotake KANDA	309334US6	6091

7590 02/09/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
WINNER, TONY H	

ART UNIT	PAPER NUMBER
3611	

NOTIFICATION DATE	DELIVERY MODE
02/09/2009	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

Refund Ref:
02/09/2009 0030066426

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1009

Adjustment date: 02/09/2009 NFARMER
05/25/2007 INTEFSW 00004947 11753744
02 FC:1111 -500.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Pyhalammi et al.	:	DECISION ON PETITION
Application No. 11/753,786	:	TO WITHDRAW
Filed: May 25, 2007	:	FROM RECORD
Attorney Docket No. 042933/329195	:	

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 4, 2010.

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.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. 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.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

May 25, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re\ Application of: Henry R. Dunlap

Appln. No.: not assigned 11/753812

Filed: filed herewith 5-25-07

For: ION SEPARATION AND GAS GENERATION A.U. 1723

(Atty. Docket No. 30658-A USA)

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR 1.102(c)(1), applicant respectfully petitions the Commissioner to have the application above identified made special without payment of fee. The basis for this Petition is that the applicant is over the age of 65 years, as can be determined upon reference to the attached Declaration of the applicant.

Respectfully submitted,

SYNNESTVEDT & LECHNER LLP

By _____
John A. Chionchio
Reg. No. 40,954

S:\H\HENRY R. DUNLAP\PATENTS\P30658-A USA\PTO\30658A PETITION.SPECIAL.DOC

PETITION GRANTED

William Krynski
Quality Assurance Specialist
Technology Center 1700
JUL 16 2007

PAGE 1/2 * RCVD AT 6/29/2007 6:11:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:2731012 * CSID:301 638 5014 * DURATION (mm-ss):01-22

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090727

DATE : July 27, 2009

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7521984 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Lincoln Donovan/ **Art Unit** 2816

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090727

DATE : July 27, 2009

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7521984 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Lincoln Donovan/ **Art Unit** 2816

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Rosa Angelo Dalla

Application No. 11753841

Filed: May 25,2007

Attorney Docket No. 42364

:
:
: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 29-SEP-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MHKKG, PC/Apple, Inc.
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Daniel W. Dobberpuhl	: DECISION ON REQUEST FOR
Patent Number	: 7652494	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,853	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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SEP 10 2008

In re Application of :
SIBBETT, Peter :
Application No. 11/753,860 : DECISION ON PETITION
Filed: May 25, 2007 : TO WITHDRAW
Attorney Docket No. **59228-8003.US02** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WOORIN PATENT FIRM**
2ND FLOOR SHINWON BLDG.
823-14 YEOKSAM-DONG, KANGNAM-KU
SEOUL, KOREA

Practitioner's Docket No.: 945_004 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Armen G. GUNJIAN

Serial No.: 11/753,887 Art Unit: Not Assigned 1724

Date Filed: May 25, 2007 Examiner: Not Assigned

Confirmation No.: 6360

For: CLEANING KIT FOR REMOVING RESIDUAL MATTER FROM INTERIOR OF A NARROW NECKED CONTAINER

Mail Stop Petition
Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATION OF EFS TRANSMISSION

I hereby certify that this paper is being transmitted via EFS to the Patent and Trademark Office on May 29, 2007

Tara L. Preston

Tara L. Preston

PETITION TO MAKE SPECIAL PURSUANT TO RULE 1.102(c)(1)

Sir:

As the sole inventor, I hereby petition that the above-identified application be made special pursuant to Rule 1.102(c)(1). I am currently 71 years of age.

May 29, 2007
Date

Armen G. Gunjian

Pursuant to Rule 1.102(d) a fee is not required when a petition is made under Rule 1.102(c). The PTO is authorized, however, to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

5/29/07
Date

Stephen P. Burr
Reg. No. 32,970

SPB/tlp

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Tel
Fac

PETITION GRANTED

William Krynski
Quality Assurance Specialist
Technology Center 1700

JUL 16 2007

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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OFFICE OF PETITIONS

BURR & BROWN
P.O. BOX 7068
SYRACUSE, NY 13261-7068

In re Application of :
Armen G. GUNJIAN :
Application No. 11/753,887 : DECISION ON PETITION
Filed: May 25, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 945_004 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 29, 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 signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of :
LIU, et al. :
Application No. 11/753,934 : DECISION GRANTING PETITION
Filed: May 25, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 067407-5136US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Tuan N. Nguyen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1621 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
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APR 01 2008

LEMPIA BRAIDWOOD LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

In re Application of :
Martinez, et al. :
Application No. 11/753,947 : ON PETITION
Filed: 25 May, 2007 :
Attorney Docket No. 10010-06 RFS-04A :

This is a decision on the petition filed on 25 January, 2008, under 37 C.F.R. §1.47(a).

For the reasons discussed above and set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47."

Petitioner's attention is drawn to the concerns that in contrast to the declaration/statement by a paralegal, who is not registered to practice before the Office, the Email documents presented indicate that only an oath/declaration and not the entire application (description, claims, abstract and drawings) was presented to the non-signing inventor, and as of this writing an insufficient

showing has been made to satisfy the requirements of regulatory requirements (see, also: the guidance in the Commentary at MPEP §409 et seq.).

BACKGROUND

The record indicates:

- the instant application was filed on 25 May, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 25 June, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 25 January, 2007, Petitioner Brian J. Lempia (Reg. No. 39,746) filed the instant petition with fee and request and fee for extension of time and an oath/declaration signed by co-inventor Cracchiola and Rosenbach for themselves and on behalf of non-signing inventor Florencia Martinez (Ms. Martinez) and a statement by Ms. Karen Kaplan averred paralegal for the averred assignee, who states that the entire application was sent via Email, however the text of the message reflects only the transmittal of "Declaration and Assignment documents," and not the entire application (description, claims, abstract and drawings) as required under statute, regulation and the guidance set forth in the Commentary of the Manual of Patent Examining procedure, and while there is some averment as to a search for a current/last known to be valid address, there is no documentation provided in support of the nature/quality thereof—and as to the actual reflects only the transmittal of the entire application (description, claims, abstract and drawings) as required under statute, regulation and the guidance set forth in the Commentary of the Manual of Patent Examining procedure; and as of this writing there appears to be an insufficient showing made to satisfy the requirements of regulatory requirements (see, also: the guidance in the Commentary at MPEP §409 et seq.).

Petitioner is respectfully requested to make a showing as to the diligence employed to ascertain the mailing addresses of the non-signing inventors, and as to the actual reflects only the transmittal of the entire application (description, claims, abstract and drawings) as required under statute, regulation and the guidance set forth in the Commentary of the Manual of Patent Examining procedure; and, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements, and to provide a copy of the transmittal letter by which the entire application is sent to the non-signing inventor .

Petitioner is reminded that Email transmission generally is considered insufficient in the absence

of affirmative evidence (i.e., reply) of receipt and ability to read the application in whatever form (e.g., *.doc, *.pdf) transmitted. Petitioner is reminded that these are due process requirements.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation) since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

(See, also: 37 C.F.R. §1.63.)

Further, when one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner=s duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. '10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See, specifically, the regulations at 37 C.F.R. §10.18.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. (The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3])

Petitioner's attention is directed to the discussion in the NOTES, BACKGROUND and ANALYSIS, above, and Petitioner should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) the requirements that a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to, and evidencing reasonable diligence in ascertaining a reasonably believed last known/current address for the non-signing inventor, all as required by law.

CONCLUSION

Therefore, the instant petition hereby is **dismissed**, and Petitioner is respectfully requested to make a showing as to the diligence employed to ascertain the mailing addresses of the non-signing inventors, and, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements in any future petition herein under 37 C.F.R. §1.47.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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[3] See: MPEP 409.03(b).

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.23) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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3 The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEMPIA BRAIDWOOD LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

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DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of
Martinez, et al.
Application No. 11/753,947
Filed: 25 May, 2007
Attorney Docket No. 10010-06 RFS-04A

DECISION ON PETITION

This is in response to the petition filed on 31 October, 2008, under 37 C.F.R. §1.47(a).

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

A grantable petition under 37 CFR 1.47(a) requires: (1) petition and fee; (2) 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: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

BACKGROUND

The record indicates:

The instant application was filed on 25 May, 2007, without, *inter alia*, a fully executed oath/declaration.

On 25 June, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required.

On 25 January, 2007, Petitioner Brian J. Lempia (Reg. No. 39,746) filed a petition with fee and request and fee for extension of time and an oath/declaration signed by co-inventor Cracchiola and Rosenbach for themselves and on behalf of non-signing inventor Florencia Martinez (Ms.

Martinez) and a statement by Ms. Karen Kaplan averred paralegal for the averred assignee, who states that the entire application was sent via Email, however the text of the message reflected only the transmittal of "Declaration and Assignment documents," and not the entire application (description, claims, abstract and drawings) as required under statute, regulation and the guidance set forth in the Commentary of the Manual of Patent Examining procedure, and while there was some averment as to a search for a current/last known to be valid address, there is no documentation provided in support of the nature/quality thereof—and as to the actual reflects only the transmittal of the entire application (description, claims, abstract and drawings) as required under statute, regulation and the guidance set forth in the Commentary at MPEP §409 et seq.—and the petition was dismissed on 1 April, 2008, for failure to satisfy the evidentiary requirements set forth at MPEP §409 et seq.

On 31 October, 2008, Petitioner filed a petition with an averment of joinder by the previously non-signing inventor, and a copy of the oath/declaration so executed in support thereof in compliance with 37 CFR 1.63.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot**.

In view of the joinder of the inventors, further consideration under 37 C.F.R. §1.47 is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application should not be returned to this Office for any further consideration under 37 C.F.R. §1.47.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of 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

VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Yingda Dong	: DECISION ON REQUEST FOR
Patent Number	: 7656703	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/753,958	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **290** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :	
Nathaniel Blair Butterfield et al. :	DECISION ON PETITION
Application No. 11/753,976 :	PURSUANT TO
Filed: May 25, 2007 :	37 C.F.R. § 1.53(e)(2)
Attorney Docket No. 220009IT-2 :	
(17978US02) :	
Title: ECONOMICALLY SUSTAINABLE, :	
STANDARDS-BASED RHIO ARCHITECTURE :	
AND APPLICATION ENVIRONMENT AND :	
METHOD OF USE :	

This is a decision on the "Petition and Response to Notice of Omitted Item" filed July 11, 2007, requesting that the above-referenced application be accorded a filing date of May 25, 2007, including Figure 7. This petition is being treated pursuant to 37 C.F.R. § 1.53(e)(2)[1].

The petition is **DISMISSED**.

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1 Any request for review of a notification pursuant to paragraph (e)(2) of this section, 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 37 C.F.R. § 1.17(f). In the absence of a timely (37 C.F.R. § 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(2) of this section will be the date the filing error is corrected.

Application papers in the above-identified application were filed on May 25, 2007. However, on June 25, 2007, the Initial Patent Examination Division mailed Applicant a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying Applicant that the application papers had been accorded a filing date, and that it appeared that Figure 7 had been omitted on filing.

In response, Applicant timely filed this petition. In which, Petitioner appears to have set forth that Figure 7 was inadvertently omitted on submission of the present application. However, Petitioner argued that Figure 7 was present in the application "by virtue of the priority claim and incorporation by reference" of the provisional application to which benefit is claimed. In other words, Petitioner has asserted that a filing date of May 25, 2007 should still be accorded to Figure 7, pursuant to 37 C.F.R. § 1.57(a)(3).

Petitioner's arguments and evidence have been considered.

On September 21, 2004, § 1.57 was added to read, *in pertinent part*:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (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…

It is noted that the present application claims the benefit of provisional application number 60/886,590, and the contents of the same have been incorporated by reference. Thus, pursuant to Rule § 1.57, the application as filed is considered to have

incorporated by reference the prior-filed provisional application as to the inadvertently omitted figure.

In view of the incorporation by reference of the prior-filed provisional application, the figure supplied concurrently with this petition on July 11, 2007 would not constitute new matter if it were a part of the original disclosure of the prior-filed provisional application.

With the present petition, Petitioner has submitted a set of replacement drawings, which contains a copy of Figure 7. However, it does not appear that Petitioner has submitted either an amendment directing the entry of these replacement drawings or a new oath or declaration. As such, the present petition cannot be granted.

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(e)(2)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner may wish to consider filing both an amendment that directs the entry of the replacement drawings and a newly executed oath or declaration with the renewed petition.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

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

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Nathaniel Blair Butterfield et al. :
Application No. 11/753,976 :
Filed: May 25, 2007 :
Attorney Docket No. 220009IT-2 :
(17978US02) :
Title: ECONOMICALLY SUSTAINABLE, :
STANDARDS-BASED RHIO ARCHITECTURE :
AND APPLICATION ENVIRONMENT AND :
METHOD OF USE :

DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.53(e)(2)

This is a decision on the "RENEWED PETITION AND RESPONSE TO NOTICE OF OMITTED ITEM" filed January 25, 2008, requesting that the above-referenced application be accorded a filing date of May 25, 2007, including Figure 7. This renewed petition is being treated pursuant to 37 C.F.R. § 1.53(e)(2)[1].

The petition is **GRANTED**.

---

1 Any request for review of a notification pursuant to paragraph (e)(2) of this section, 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 37 C.F.R. § 1.17(f). In the absence of a timely (37 C.F.R. § 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(2) of this section will be the date the filing error is corrected.

Application papers in the above-identified application were filed on May 25, 2007. However, on June 25, 2007, the Initial Patent Examination Division mailed Applicant a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying Applicant that the application papers had been accorded a filing date, and that it appeared that Figure 7 had been omitted on filing.

In response, Applicant filed an original petition on July 11, 2007, which was dismissed via the mailing of a decision on December 26, 2007.

The decision on the original petition set forth that pursuant to Rule § 1.57, the application as filed is considered to have incorporated by reference the prior-filed provisional application as to the inadvertently omitted figure, and that the figure supplied concurrently with the original petition would not constitute new matter if it were a part of the original disclosure of the prior-filed provisional application. However, Petitioner failed to submit either an amendment directing the entry of these replacement drawings or a new oath or declaration.

With this renewed petition, Petitioner has submitted an amendment directing the entry of these replacement drawings, has asserted that a new oath or declaration is not required, and has attested, over his registration number, that "Figure 7 was…reviewed and approved by the inventors at the time of their oath[2]."

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

The drawings contained in the preliminary amendment received on January 25, 2008 with this renewed petition will be reviewed in due course by the examiner for new matter[3]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

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2 The Office will assume that this is a typographical error, as it was not an oath, but rather a declaration that was submitted on filing.
3 See MPEP 608.02(h) and 608.04.

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[4].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[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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United States Patent and Trademark Office
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MAY 07 2010

OFFICE OF PETITIONS

12IC CORPORATION
776 CORONADO LN.
FOSTER CITY CA 94404

In re Application of	:	
Kanade et al.	:	
Application No. 11/753,991	:	ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. 18063-4004	:	

This is a decision on the petition, filed February 16, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely file corrected drawings as required by the Notice of Allowability, mailed October 9, 2009, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before January 11, 2010. A Notice of Abandonment was mailed January 28, 2010.

Petitioner contends that the instant application should not have become abandoned for failure to file corrected drawings, as the Notice of Allowability stated, "Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application." Petitioner states that the response submitted on January 8, 2010 was a timely and proper reply, and included not only the Issue Fee Transmittal, with payment of the issue and publication fees, but also the requisite amendment to the specification.

The file record does not include the amendment to the specification, only the Issue Fee Transmittal. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> > (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> > (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> > (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy item (2) as listed above. As there is no record of the amendment to the specification, petitioner must submit copy of the reply with evidence of the timely filing of said document.

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is on the behalf of the assignee, petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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12IC CORPORATION
776 CORONADO LN.
FOSTER CITY CA 94404

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Kanade et al. :
Application No. 11/753,991 : ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. 18063-4004 :

This is a decision on the renewed petition, filed May 13, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Petitioner has submitted the Amendment under 37 CFR 1.312, which includes the required amendment to the specification. Petitioner has also included a copy of USPS Express Mail label No. ED 644383614 US and a copy of the postal service sales receipt, both of which are dated January 8, 2010.

However, the Express Mail label number must be placed on the document itself to receive the date of deposit as the date the filed. As stated in MPEP 513(III),

> To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Accordingly, the amendment cannot be given the benefit of January 8, 2010 as the date of receipt as the Express Mail label number was not placed on the document.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action, unless previously filed;

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 0 1 2009

OFFICE OF PETITIONS

KENYON & KENYON LLP
1500 K STREET NW, SUITE 700
WASHINGTON DC 20005

In re Application of :

Ronald A. GUIDOTTI, et *al.* :
Application No. 11/754,000 : DECISION ON PETITION TO
Filed: May 25, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **1628/46601** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted a correspondence address change directing all future correspondence for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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KENYON & KENYON LLP
1500 K STREET NW, SUITE 700
WASHINGTON, DC 20005

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APR 07 2010

OFFICE OF PETITIONS

In re Application of
Ronald A. GUIDOTTI, et *al.*
Application No. 11/754,000
Filed: May 25, 2007
Attorney Docket No. **1628/46601**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Gerard A. Messina 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 at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 25, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examine, Office of Petitions

cc: **RONALD A. GUIDOTTI**
P.O. BOX 16146
COLORADO SPRINGS, CO 80935

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,017	05/25/2007	Takayoshi SAITO	309389US3CONT	6609

7590 05/27/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
FONSECA, JESSIE T	

ART UNIT	PAPER NUMBER
3633	

NOTIFICATION DATE	DELIVERY MODE
05/27/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
05/28/2008 0030056161

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1006

Adjustment date: 05/28/2008 NFARMER
05/29/2007 INTEFSW 00001264 11754017
02 FC:1111 -500.00 OP

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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DEC 01 2009

OFFICE OF PETITIONS

In re Application of :
Quinn et al. :
Application No. 11/754,032 : ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. NPS-PT078.1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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APR 23 2009

OFFICE OF PETITIONS

In re Application of :
Michael P. Bailen :
Application No. 11/754,071 : ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. 20879-004001 :

This is a decision on the petition, filed February 13, 2009, 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 November 11, 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).

Since the given in the present petition differs from the address of record, a courtesy copy of this decision will be mailed to the address in the petition. Thereafter, all future correspondence will be mailed to the address of record until otherwise instructed.

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Joshua J. McGuire
Fish & Richardson, P.C. (Twin Cities)
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Michael P. Bailen :
Application No. 11/754,071 : ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. 20879-004001 :

This is a decision on the renewed petition, filed April 28, 2009, 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 instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joshua J. McGuire 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**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 23, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 27, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

This application is being referred to Technology Center Art Unit 2629 for examination in due course.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/754,071	05/25/2007	Michael P. Bailen	20879-004001

CONFIRMATION NO. 6692

26191
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

NONPUBLICATION RESCISSION LETTER

Date Mailed: 05/19/2009

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 08/27/2009.

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".

/amsmith/

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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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	: Richard W. Aston	: DECISION ON REQUEST FOR
Patent Number	: 7644891	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **403** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Aug-07

HUGHES LAW FIRM, PLLC
PACIFIC MERIDIAN PLAZA, SUITE 302
4164 MERIDIAN STREET
BELLINGHAM WA 98226-5583

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SEP 05 2007

OFFICE OF PETITIONS

In re Application of :
Jan Van Cotthem : DECISION ON PETITION
Application Number: 11/754183 :
Filed: 05/25/2007 :
Attorney Docket Number: :
P415792PAT :

This is in response to the "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION" filed on 5 July, 2007, which is treated as a petition requesting that the above-referenced application be accorded a filing date of 25 May, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on 25 May, 2007. However, on 27 June, 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.

In response, applicants timely filed this petition. Applicants assert that the drawings were present on filing inasmuch as the application is entitled to a benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date. Applicants further have supplied eight (8) sheets of drawings and request that the drawings be entered.

Petitioners' 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. MPEP 601.01(f) provides that:

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, 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). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 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.

Accordingly, the Office should 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 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 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.

No petition is required. Petitioners may wish to consider filing a preliminary amendment to enter the inadvertently omitted drawings. If a preliminary amendment is filed, it will be reviewed for new matter by the examiner.

To the extent the instant petition requests a filing date of 25 May, 2007, 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 Deposit Account No. 08-3260, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for:

- **correction of the filing date to 25 May, 2007;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney, Douglas I. Wood at 571.272.3231.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,190	05/25/2007	Charles Butterfield	2725-32601	6910

7590 07/11/2008

Conley Rose, P.C.
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER	
FULLER, ROBERT EDWARD	

ART UNIT	PAPER NUMBER
3676	

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.

Patent Publication Branch
Office of Data Management

Refund Ref:
07/11/2008 0030058316

Credit Card Refund Total: $4150.00

Am Exp..: XXXXXXXXXXX1004

Adjustment date: 07/11/2008 NFARMER
08/30/2007 INTEFSW 00005685 11754190
02 FC:1111 -500.00 OP
04 FC:1202 -2650.00 OP
05 FC:1201 -1000.00 OP

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Caterpillar Inc.
Intellectual Property Dept.
AH 9510
100 N.E. Adams Street
PEORIA IL 61629-9510

JUN - 2 2010

In re Application of :
KRIEGER, JEFFREY J. et al. : **DECISION ON PETITION**
Application No. 11/754,204 :
Filed: May 25, 2007 :
Attorney Docket No.: 05-727 :

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR §1.181 received in the United States Patent and Trademark Office (USPTO) on May 20, 2010.

The Petition is **Granted**.

The application was held abandoned for failure to timely file corrected drawings as required by and within the three-month period set in, the Notice of Allowability mailed December 3, 2008. Corrected drawings were not submitted within the time period for response. Therefore, the application was **properly** held abandoned and the Notice of Abandonment was mailed on March 31, 2009.

Petitioner states that U.S. Patent and Trademark Office mistakenly required corrected drawings on the Notice of Allowability. The drawings filed on June 19, 2009 appear to correct these problems. After consultation with the Examiner, the Office agrees that the drawing requirement was made in error.

The drawings filed on June 19, 2009 are acceptable and no further corrections are required.

Telephone inquires relating to this matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAKEDA SAN DIEGO, INC.
10410 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of
Sheldon X. Cao et al.
Application No. 11/754,205
Filed: May 25, 2007
Attorney Docket No. GK-5009-U

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed July 10, 2007, under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of May 25, 2007.

The application was filed on May 25, 2007 without drawings.[1] Accordingly, on July 3, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete . Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. The Notice also indicated that the oath or declaration was missing and that a newly executed oath or declaration be submitted.

In response, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of May 25, 2007.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." .

[2] MPEP 601.01(f).

In view of the above, the Notice mailed July 3, 2007, is hereby withdrawn. The application is accorded a filing date of May 25, 2007, without drawings.

The petition is **GRANTED**. In view thereof, no petition fee is due and petitioner's deposit account no. 50-2256 will be credited in the amount of $400.00.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 25, 2007, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Kevin J. Surace et al. :
Application No. 11/754,220 : DECISION ON PETITION
Filed: May 25, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 28262-709.201 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2), filed December 9, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The application must be directed to a single invention that either: A) materially enhances the quality of the environment or B) that materially contributes to: i) the discovery or development of renewable energy

resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item(s) 4 as explained below.

Applicant's invention relates to binders and sheathing panels. In the statement accompanying the instant petition, petitioner states "[panels of the instant invention] do not require natural resources such as wood required by traditional sheathing panels and which emit significantly lower greenhouse gases and use less embodied energy when compared with processes used to make traditional wood or gypsum sheathing panels. In this manner, Applicant's invention is directed to the more efficient utilization and conservation of energy resources and green house gas emission reduction." However, neither the applicant's disclosure nor the petition makes it clear as to how the instant invention leads to (a) the more efficient utilization and conservation of energy resources, or (b) green house gas emission reduction or (c) uses less "embodied energy", when compared with traditional alternatives. The instant petition fails to explain how the instant invention contributes in a significant, substantial or noticeable manner to the more efficient utilization and conservation of energy resources or green house gas emission reduction. Accordingly, it is unclear as to how the claimed invention would materially contribute under category (A) or (B).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4914.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3635 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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LEMPIA BRAIDWOOD LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of :
Frankel, et al. :
Application No. 11/754,222 :
Filed: May 25, 2007 :
Attorney Docket No. 10010-06 RFS-06A :

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 22, 2008.

The petition is DISMISSED.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioners contend that inventors Joy Burns, Jamie Davis, Colin Greenidge, and Soren Ingomar Petersen (hereinafter, "the non-signing inventors") cannot be "found or reached after diligent effort." Petitioners further state that the efforts made to locate the non-signing inventors included: attempting to locate the non-signing inventors through their last known employer as well as through other joint inventors; contacting the non-signing inventors at their last known addresses and phone numbers; and utilizing directory assistance, email, and the internet to locate the non-signing inventors.

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 have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers as the facts alleged are not supported by any documentary evidence of the efforts made to locate the non-signing inventors.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventors 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. Petitioners should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEMPIA BRAIDWOOD LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of
Frankel, et al.
Application No. 11/754,222
Filed: May 25, 2007
Attorney Docket No. 10010-06 RFS-06A

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration under 37 CFR 1.47(a), filed October 22, 2008.

The petition is DISMISSED.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioners argue that the previously non-signing inventor (Joy Burns) is now available to execute the declaration for the instant application. The declaration submitted herewith is not acceptable as it contains alterations that have not been initialed and/or dated as per 37 CFR 1.52(c). Any renewed petition must be accompanied by a oath or declaration in compliance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Frankel, et al. : DECISION NOTING JOINDER OF
Application No. 11/754,222 : INVENTOR AND PETITION
Filed: May 25, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 10010-06 :
RFS-06A

Papers filed on April 22, 2009 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed December 22, 2008, included a Declaration signed by a previously non-signing inventor in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

This application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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TIMOTHY A. WORRALL, PH.D., J. D.
DORSEY & WHITNEY LLP
3RD FLOOR
555 CALIFORNIA STREET
SAN FRANCISCO CA 94104-1513

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OFFICE OF PETITIONS

In re Application of :
Mark A. Gallop, et al. :
Application No. 11/754,232 :
Filed: May 25, 2007 :
Atty Docket No. 34550/US/4/TAW :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

/Sherry D. Brinkley/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/09

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: 11754248 Patent No.: 7476973

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

[redacted]

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.

☒ **Approved**	All changes apply.
☐ **Approved In Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Kenneth Parker 2815
SPE 2815

PAGE 1/1 * RCVD AT 11/18/2009 12:07:13 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-46

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Thomas D Harrison :
Application No. 11/754,281 : DECISION ON PETITION
Filed: May 26, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 16640.3 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a 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 referred to the Office of Patent Application Processing to await a reply to the Notice that was mailed on July 10, 2007. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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STEVEN J. CAHILL/ ALTERA CORP.
P.O. Box 779
MENLO PARK, CA 94026-0779

Mail Date: 04/21/2010

Applicant	: Sergey Shumarayev	: DECISION ON REQUEST FOR
Patent Number	: 7638990	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

PHILIP D. FREEDMAN PC
1449 DRAKE LANE
LANCASTER, PA 17601

In re Application of :
David D. Farris et al :
Application No. 11/754,331 : ON PETITION
Filed: May 28, 2007 :
Attorney Docket No. 213899-06 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 16, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/754,331	**Applicant(s)** FARRIS ET AL.	
	Examiner Margaret G. Moore	**Art Unit** 1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *49 to 58, 60 to 71*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Margaret G. Moore/
Primary Examiner, Art Unit 1796

Continuation of 3. NOTE: The proposed amendment significantly broadens the scope of claim 49 to include limitations not previously considered and possibly not supported by the specification. Note that R3 and R6 were not previously allowed to be the same.

Continuation of 11. does NOT place the application in condition for allowance because: 1) the amendment does not address all of the 112 rejections in the previous office action and 2) the Terminal Disclaimers have not been accepted as they do not contain the appropriate fee..

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PHILIP D. FREEDMAN PC
1449 DRAKE LANE
LANCASTER, PA 17601

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
David D. Farris et al :
Application No. 11/754,331 : ON PETITION
Filed: May 28, 2007 :
Attorney Docket No. 213899-06 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 the submission required by 37 CFR 1.114; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed January 23, 2010 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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482 BAY ROAD
Hamilton, MA 01936

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
DONOVAN, et al. :
Application No. 11/754,335 :
Filed: May 28, 2007 :
Attorney Docket No. JJD-002 :
:

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 May 28, 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 the statement of inventor John J. Donovan, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-2600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 2621 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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PETER M. ULLMAN LLC
PO BOX 6764
LAWRENCEVILLE NJ 08648-0764

MAILED

AUG 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard F. Long	:	DECISION ON PETITION
Application No. 11/754,395	:	TO WITHDRAW
Filed: May 29, 2007	:	FROM RECORD
Attorney Docket No. GELL-0007	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 7, 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.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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COATS & BENNETT/SONY ERICSSON
1400 CRESCENT GREEN
SUITE 300
CARY, NC 27518

Mail Date: 04/21/2010

Applicant	: Matt Andrew Kaltenbach	: DECISION ON REQUEST FOR
Patent Number	: 7570974	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,397	: OF WYETH
Filed	: 05/29/2007	:
		:

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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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Shigeto Inui, et al.	:	
Application No. 11/754,410	:	DECISION ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. 00380381BA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 15, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2825 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,414	05/29/2007	Seok-whan Chung	Q98468	7376

7590 07/17/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
MULLINS, BURTON S	
ART UNIT	**PAPER NUMBER**
2834	
MAIL DATE	**DELIVERY MODE**
07/17/2009	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: 07/17/2009 NFARMER
05/29/2007 INTEFSW 00005811 194880 11754414
02 FC:1111 500.00 CR

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BURNET, DUCKWORTH & PALMER,LLP
1400 350-7TH AVENUE
CALGARY AB T2P 3NP CA CANADA

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of	:	
William James Long	:	
Application No. 11/754,426	:	DECISION ON PETITION
Filed: May 29, 2007	:	TO WITHDRAW
Attorney Docket No. 26 P01 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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Heather A. Mueller on behalf of all attorneys of record who are associated with customer No. 67330. All attorneys/agents associated with the Customer Number 67330 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: WILLIAMS JAMES LONG
4808 GREENVIEW DRIVE, NE
CALGARY AB T2E 5R6
CANADA

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/754,426	05/29/2007	William James Long	26-P01 US

CONFIRMATION NO. 7400

67330
Burnet, Duckworth & Palmer LLP
1400 350-7TH Avenue
Calgary, AB T2P 3NP
CANADA

POWER OF ATTORNEY NOTICE

OC00000003469667 1

Date Mailed: 02/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AUG 13 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

In re Application of :
MORITA, MASAHIKO :
Application No. 11/754,448 :
Filed: May 29, 2007 :
Attorney Docket No. B588-254 (25815.259) :

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 18, 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 JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

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.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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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SCHLUMBERGER TECHNOLOGY CORPORATION - HCS
200 GILLINGHAM LANE, MD-2
SUGAR LAND, TX 77478

Mail Date: 04/20/2010

Applicant	: Pierre-Yves Corre	: DECISION ON REQUEST FOR
Patent Number	: 7647980	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: 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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RISSMAN HENDRICKS & OLIVERIO, LLP
100 Cambridge Street
Suite 2101
BOSTON MA 02114

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MAR 10 2010

In re Application of	:	
Hirsch et al.	:	
Application No. 11/754,491	:	DECISION ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. S004-7025	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fee on or before December 8, 2009, as required by the Notice of Allowance and Fee(s) Due mailed September 8, 2009. Accordingly, the date of abandonment of this application is December 9, 2009. A Notice of Abandonment was mailed December 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 payment of the $300.00 publication fee; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Petitioner contends that "Applicant fully intended to pay all fees as evidenced by the timely 20 October 2009 filing with a request to charge the deposit account for the full amount of $1810.00." However, on October 20, 2009 the deposit account had insufficient funds.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Ralph E. Brafford JR.	: DECISION ON REQUEST FOR
Patent Number	: 7632042	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **434** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232

In re application of
Phillip A. Berlin et al.
Application No. 11/754,525
Filed: May 29, 2007
For: CENTRALIZED ELECTRONIC SALES USING A CONSOLIDATOR

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on May 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

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 petition fails to comply with condition I.3, above.

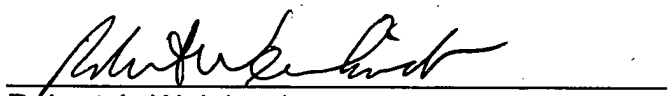
Because the application was filed with a preliminary amendment, the application is considered to be incomplete under 37 CFR 1.51 because the application was not in condition to be acted upon at the time the application was filed, as evidenced by the preliminary amendment of 05/29/2007.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure. Given the above failure of filing a complete application, which cannot now be remedied, the petition has not been further reviewed on the merits.

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. Further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 07/06/07

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HOFFMAN WARNICK LLC
75 STATE STREET, 14TH FLOOR
ALBANY NY 12207

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JAN 20 2009

In re Application of
Lijun Jiang et al
Application No.11/754,539
Filed: May 29, 2007
Attorney Docket No.
YOR920060495US1

: DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and declaration/surcharge; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notices mailed June 21, 2007 and January 23, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing. Afterwards, the application will be referred to Technology Center AU 2628 for appropriate action by the Examiner in the normal course of business.

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IP AUTHORITY, LLC
RAMRAJ SOUNDARARAJAN
4821A EISNHOWER AVE
ALEXANDRIA, VA 22304

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SEP 0 4 2009

OFFICE OF PETITIONS

In re Application of :
George Peckham :
Application No. 11/754,540 : DECISION ON PETITION
Filed: May 29, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. SI_NPA_2007_0027 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition filed July 20, 2009, which is being treated as a petition under 37 CFR 1.102(c)(1), to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor George Peckham stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paul E. Franz, Esq.
JONES DAY - North Point
901 Lakeside Avenue
Cleveland OH 44114-1190

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
George B. Bumiller :
Application No. 11/754,552 : DECISION ON PETITION
Filed: May 29, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 555255-012952 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 29, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2617 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 20 2007

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ERIC P. MIRABEL
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

In re Application of	:
Sukanta Banerjee et al	:
Serial No.: 11/754558	: PETITION TO MAKE SPECIAL
Filed: May 29, 2007	:
Attorney Docket No.: MAMA-C5	:

This is a decision on the petitions filed on May 29 and 30, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

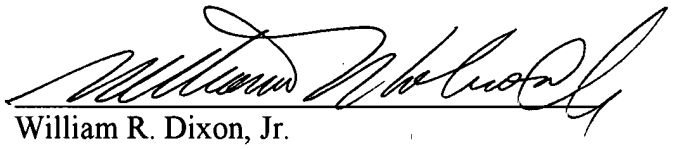
1. The application must be a **newly** filed non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it is a new application filed electronically, however the application is incomplete as evidenced by the Missing Parts letter mailed June 5, 2007. It is further evidenced by applicants' filing of a specification accompanied by a petition to accept a late filed

specification on may 30, 2007. In addition, two sets of claims are presented, both sets beginning with claim 1, with one set preceded by a direction to cancel claims 1-40. Such is improper. Therefore, the application is incomplete and does not qualify for accelerated examination

For the above-stated reasons, both petitions are denied. The application will therefore be taken up by the examiner for action in its regular turn, when complete.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 5000

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Paper No.

ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Sukanta Banerjee, Michael Seul :
Alice Li, Kairali Podual : DECISION REFUSING STATUS
Chiu Chau and Zhi Li : UNDER 37 C.F.R. § 1.47(a)
Application No. 11/754,558 :
Filed: May 30, 2007 :
Attorney Docket No. MAMA-C5 :

This is a decision on the "Petition Under Rule 1.47; Non-Signing Inventor" filed August 2, 2007.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 29, 2007, with an executed declaration from a prior application. No filing date was accorded to the application as filed on May 29, 2007 as it did not include a specification.

On May 30, 2007, the specification was filed and the instant application was accorded a filing date of May 30, 2007. As such the declaration filed May 29, 2007 has no effect in this application. No declaration was included with the papers filed on May 30, 2007 and the statutory basic filing fee, examination

and search fees were missing. Accordingly, on June 5, 2007, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing and the missing filing fees. In addition, replacement drawings were required. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants timely filed the surcharge under § 1.16(l) and the instant petition under § 1.47(and fee). (Petitioner has also submitted replacement drawings and authorized the missing fees be charged to Deposit Account No. 50-2088). Accompanying the petition was a declaration executed by inventors Sukanta Banerjee, Michael Seul, Alice Li, Kairali Podual and Chiu Chau on behalf of themselves and on behalf of non-signing inventor Zhi Li. Applicants assert that status under § 1.47(a) is proper because inventor Zhi Li has not responded to requests to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition satisfied requirements (2), (3) and (4). The declaration filed August 2, 2007 executed by inventors Sukanta Banerjee, Michael Seul, Alice Li, Kairali Podual and Chiu Chau on behalf of themselves and on behalf of non-signing inventor Zhi Li is acceptable. (It is unclear why petitioner repeatedly also submits a copy of the declaration from the parent application, which does not include inventor Zhi Li as a joint inventor. This declaration is given no effect). The petition includes authorization to charge the petition fee to a Deposit Account and a statement of the last known address of the non-signing inventor.

Rule 47 applicants have not submitted proof that the non-signing inventor has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a bona fide attempt was made to present a copy of the application

papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. A refusal by an inventor to sign an oath or declaration when the inventor 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. See MPEP 409.03(d).

In this instance, applicants have not presented evidence that the inventors were ever presented with all of the application papers (specification, claims and drawings) for review and signature. Petitioner merely states that the inventor has not responded to several letters and faxes (the contents of which are not disclosed). Further, petitioner submits no documentary evidence to demonstrate the receipt of these communications, even if they did include all of the application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Sukanta Banerjee, Michael Seul	:	
Alice Li, Kairali Podual	:	DECISION ACCORDING STATUS
Chiu Chau and Zhi Li	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/754,558	:	
Filed: May 30, 2007	:	
Attorney Docket No. MAMA-C5	:	

This is in response to the "Response to Decision Refusing Status Under Rule 1.47(a)" filed January 30, 2008.

The petition is **GRANTED**.

The above-identified application was filed on May 29, 2007, with an executed declaration from a prior application. No filing date was accorded to the application as filed on May 29, 2007 as it did not include a specification.

On May 30, 2007, the specification was filed and the instant application was accorded a filing date of May 30, 2007. As such the declaration filed May 29, 2007 has no effect in this application. No declaration was included with the papers filed on May 30, 2007 and the statutory basic filing fee, examination and search fees were missing. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," mailed June 5, 2007, applicants timely filed the surcharge under § 1.16(l) and the initial petition under § 1.47(and fee)(and replacement drawings and authorized the missing fees be charged to Deposit Account No. 50-2088). Accompanying the petition was a declaration executed by inventors Sukanta Banerjee, Michael Seul, Alice Li, Kairali Podual and Chiu Chau on behalf of themselves and on behalf of non-signing inventor Zhi Li. Applicants assert that status

under § 1.47(a) is proper because inventor Zhi Li has not responded to requests to sign the declaration.

By decision mailed January 7, 2008, the petition was dismissed, as it did not include adequate proof that inventor Li had refused to join in the application after having been presented with the application papers.

On instant renewed petition, applicants submitted adequate proof in the form of a showing that all of the application papers had previously been sent to the inventor (and were redelivered to the last known address of inventor Li by Federal Express delivery on January 22, 2008). However, inventor Li had not responded to either request to join in the application. Given the evidence now of record, it can be inferred that inventor Li's conduct in not responding to the requests to execute the declaration after having been presented with all of the application papers constitutes a refusal.

The declaration filed August 2, 2007, has been reviewed and found in compliance with § 1.63. The petition fee and the last known address of the non-signing inventor were previously supplied.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dr. Zhi Li
5 Genevieve Drive
Irvington, NY 10533

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OFFICE OF PETITIONS

In re Application of :
Sukanta Banerjee, Michael Seul :
Alice Li, Kairali Podual :
Chiu Chau and Zhi Li : LETTER
Application No. 11/754,558 :
Filed: May 30, 2007 :
Attorney Docket No. MAMA-C5 :

Dear Dr. Li:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

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OFFICE OF PETITIONS

In re Application of:
Chris D. Karkanias, et al.
Application No. 11/754,565
Filed: May 29, 2007
Attorney Docket No. 318348.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2010, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to the restriction requirement mailed June 9, 2009, which set a shortened statutory period for reply of one (1) months. The period for reply was restarted in the letter mailed June 22, 2009 to commence on the mailing date of said letter. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the restriction requirement; (2) the petition fee of $1,620.00; and (3) an adequate statement of unintentional delay. Accordingly, the response to the restriction requirement filed on February 19, 2010 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3764 for appropriate action.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Robert S. Jordan JR.	: DECISION ON REQUEST FOR
Patent Number	: 7607665	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/754,573	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,644	05/29/2007	Katsuo Tokuhara	102281.59068US	7744

7590 10/15/2008

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
KUNTZ, CURTIS A	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
10/15/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 10/16/2008 BPOWELL
05/30/2007 INTEFSW 00008923 11754644
02 FC:1111 -500.00 OP

Adjustment Date: 10/16/2008 BPOWELL
07/22/2008 INTEFSW 00003158 504447 12176930
02 FC:2111 255.00 CR

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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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OFFICE OF PETITIONS

In re Application of :
Kevin Kuntz et al :
Application No. 11/754,653 : DECISION ON PETITION
Filed: May 29, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PR61992US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1626 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/754,653	05/29/2007	1626	3920	PR61992US	33	3

CONFIRMATION NO. 7764

CORRECTED FILING RECEIPT

23347
GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

Date Mailed: 02/03/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kevin Kuntz, Durham, NC;
Kyle Allen Emmitte, Durham, NC;
Tara Renae Rheault, Durham, NC;
Stephon Smith, Durham, NC;
Keith Hornberger, Durham, NC;
Hamilton Dickson, Durham, NC;
Mui Cheung, King of Prussia, PA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/810,526 06/02/2006

Foreign Applications

If Required, Foreign Filing License Granted: 07/03/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/754,653**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Benzimidazole Thiophene Compounds

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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CST

September 21, 2009

In re application of Kimihiro Yoshimura Serial No. 11/754,659 Filed: May 29, 2007 For: TONER, ELECTROPHOTOGRAPHIC APPARUTUS AND PROCESS CARTRIDGE	: : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed July 7, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
a. Ensure 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); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); 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.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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SUTHERLAND ASBILL & BRENNAN, LLP
999 PEACH STREET NE
ATLANTA, GA 30309

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Mark G. ALLEN, et *al.*
Application No. 11/754,680
Filed: May 29, 2007
Attorney Docket No. **GTRC3432**

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 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sutherland Asbill & Brennan, LLP has been revoked by the assignee of the patent application on May 19, 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: **TROUTMAN SANDERS, LLP**
5200 BANK OF AMERICA PLAZA
600 PEACHTREE STREET NE, SUITE 5200
ATLANTA, GA 30308-2216

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,704	05/29/2007	Hironori Minamizaki	309380US2TTC	7856

7590 05/14/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HJERPE, RICHARD A	

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 BPOWELL
05/30/2007 INTEFSW 00009523 11754704
02 FC:1111 -500.00 OP
04 FC:1201 -1600.00 OP

Adjustment date: 05/13/2009 BPOWELL
05/30/2007 INTEFSW 00009523 11754704
02 FC:1111 -500.00 OP
04 FC:1201 -1600.00 OP

Refund Ref:
05/13/2009 0030070028

Credit Card Refund Total: $2100.00

Am Exp..: XXXXXXXXXX1009

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JOSEPH V. TASSONE, ESQ.
DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG OH 45342

COPY MAILED

AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
McCracken et al.	:	DECISION ON PETITION
Application No. 11/754,716	:	TO WITHDRAW
Filed: May 29, 2007	:	FROM RECORD
Attorney Docket No. 04-16a	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 26, 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.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST
SUITE 900
HUNTSVILLE AL 35801

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
William Clayton :
Application No. 11/754,741 : DECISION ON PETITION
Filed: May 29, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. S7312-74752 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 30, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Initial Patent Examination to await a reply to the Notice to File Corrected Application Papers (Notice) mailed June 20, 2007. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,750	05/29/2007	Nobuhiro Fujii	309434US8	7937

7590 01/28/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
AKINYEMI, AJIBOLA A

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
01/28/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/28/2010 [illegible]

Credit Card Refund Total: $700.00

CC Exp...: [illegible]

Adjustment date: 01/28/2010 NFARMER
05/30/2007 INTEFSW 00009521 11754750
02 FC:1111 -500.00 DP
04 FC:1201 -200.00 DP

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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

JUL 27 2007

In re Application of: Van De ROSTYNE
Serial No.: 11/754,752
Filed: June 14, 2007
Title: HELICOPTER

: DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), 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.

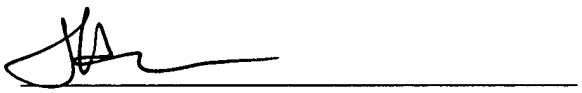
The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the application the application, at the time of filing, was not complete under 37 CFR 1.51 and in condition for examination, as evidenced by the mailing of the Notice To File Corrected Application Papers on June 1, 2007. Further, the nature of the omission resulted in a

later filing date of the application clearly indicating the application was not in condition for examination upon filing. See 71 Fed. Reg. 36323 notice, section VIII, Conditions for Examination. The opportunity to perfect a petition does not apply to applications that are not in condition for examination on filing.

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.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.



J. Harrison
Special Program Examiner
Technology Center 3700

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of :
Sachi Iida : LETTER REGARDING
Application No.: 11/754,763 : PATENT TERM ADJUSTMENT
Filed: May 29, 2007 :
Attorney Docket No. 09812.0979 :

This is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION" filed August 5, 2009. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

The request for review of determination of the patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-four (74) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On May 6, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 164 days. On August 5, 2009, applicant submitted the instant comment. Applicant discloses that applicant believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed May 6, 2009, is incorrect. Specifically, applicant states that:

> The Notice indicates that the PTO has determined that The patent term adjustment period for this application is 164 days. Applicant respectfully requests that the PTO clarify how it arrived at this adjustment period. Based on Applicant's calculation, at this point in the prosecution of this application, the patent term adjustment period should be 74 days.

> Applicants believe that there may be a 90 day deduction of patent term adjustment because the Response to File Missing Parts, filed December 17, 2007, was filed with a four month extension of time.

Excerpt from Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation, filed August 5, 2009, pages 1-2.

The application history has been reviewed and it has been determined that applicant should have been assessed a delay under 37 CFR 1.704(b)[1] for filing a reply in excess of the three month period from the June 18, 2007, mailing date of the "Notice to File Missing Parts of Non-Provisional Application". On June 18, 2007, a "Notice to File Missing Parts of Non-Provisional Application" was mailed. On December 17, 2007, applicant filed a response to the "Notice to File Missing Parts of Non-Provisional Application". Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 90 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the "Notice to File Missing Parts of Non-Provisional Application", September 19, 2007, and ending on the date the reply was filed, December 17, 2007. A period of reduction of 90 days will be entered.

---

[1] 37 CFR 1.704(b) states:

> 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 view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is seventy-four (74) days.

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the $200.00 application fee under 37 1.18(e). The Office thanks applicant for his good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Telephone inquiries regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Wednesday

Date: 11/18/2009

PALM INTRANET

Time: 10:51:38

PTA Calculations for Application: 11/754763			
Application Filing Date:	05/29/2007	PTO Delay (PTO):	164
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	74
PTO Delay Adjustment:	-90		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	11/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
37	05/06/2009	MAIL NOTICE OF ALLOWANCE			
36	05/06/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	05/06/2009	ISSUE REVISION COMPLETED			
34	05/06/2009	DOCUMENT VERIFICATION			
33	05/05/2009	NOTICE OF ALLOWABILITY			
32	02/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	04/26/2009	DATE FORWARDED TO EXAMINER			
28	04/03/2009	RESPONSE AFTER NON-FINAL ACTION			
27	04/03/2009	NEW OR ADDITIONAL DRAWING FILED			
26	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	01/09/2009	MAIL NON-FINAL REJECTION	164		-1
23	01/06/2009	NON-FINAL REJECTION			
22	05/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	05/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/11/2008	CASE DOCKETED TO EXAMINER IN GAU			
19	04/17/2008	PG-PUB ISSUE NOTIFICATION			
18	03/31/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	03/26/2008	TRANSFER INQUIRY TO GAU			
16	03/25/2008	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
15	05/29/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	05/29/2007	MISCELLANEOUS INCOMING LETTER			
13	05/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/07/2008	APPLICATION DISPATCHED FROM OIPE			
11	12/27/2007	SENT TO CLASSIFICATION CONTRACTOR			
10	12/28/2007	FILING RECEIPT - UPDATED			
9	12/17/2007	REQUEST FROM APPLICANT FOR THE USPTO TO RETRIEVE THE PRIORITY DOCUMENT			
8	12/17/2007	ADDITIONAL APPLICATION FILING FEES			
7	12/17/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	06/18/2007	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/09/2007	CLEARED BY OIPE CSR			
4	06/02/2007	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	05/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
2	05/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
1	05/29/2007	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FROM DIRECTORS OFFICE

JUL 18 2007

TECHNOLOGY CENTER 3600

Kevin P. Braig
9055 O'Connor's Point Road
Belle Center, OH 43310

In re application of
Kevin P. Braig et al.
Application No. 11/754,774
Filed: May 29, 2007
For: TRADING SYSTEM AND METHOD FOR INSTITUTIONAL ATHELETIC AND EDUCATION PROGRAMS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on May 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.1., II.5.2, II.6.2, II.6.3, and II.6.5, above.

As to condition II.5.1, the pre-examination search is inadequate because it does not involve all required foreign patent documents or a justification that with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources. Specifically, while the Search Document identifies searches performed involving Japanese Patent Documents and EPO Documents, the pre-examination search does not involve WIPO documents or a statement justifying the elimination of this search. Further, while the Search Document states that USPTO, JPO, and EPO were searched and the files of USPAT, US-PGPUB, JPO, and EPO were searched, the Search Document does not identify the Database Services used to search these files. Therefore, the Search Document is insufficient because it does not involve all required foreign patent databases and because it does not identify the Database Services utilized to perform the searches.

As to condition II.5.2, the petition lacks an indication of a pre-examination search that encompasses all of the features of the claims. Specifically with regards to the USPTO, JPO, and EPO searches, while the classification search is acceptable covering the most relevant classifications and while the term searches are acceptable for the subject matter of the independent claims, the search logic outlined in the Search Document is not sufficient to be said to encompass all the features of the claims, specifically the features disclosed in the dependent claims. The dependent claims add additional features such as user accounts with automatic debits and credits being made based on trades, students being qualified to purchase an option, designated contract markets, composite indexes, total open interests, and subsidizing tuition expenses. However, these features were not searched. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:
(contract$2) and (college$4 or university$4 or school$2 or instituition$2 or athlet$5 or sport$4) and (composite adj1 index$4) and (subsidiz$7 near4 tuition$4) and (student$4 same (buy$4 or purchas$4) same option$4)

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example of a starting off point for applicant's assistance.

Additionally as to condition II.5.2, with regards to the pre-examination search performed in Westlaw, Google, Online Banking/Finance/Investment Databases, and Miscellaneous Online services, while the databases utilized are sufficient and the term searches are acceptable for the subject matter of the independent claims, the search logic outlined for these NPL resources is not sufficient to be said to encompass all the features of the claims, specifically the features disclosed in the dependent claims. The dependent

claims add additional features, as discussed above, which were not searched. The search logic should encompass all the features of the claims, including those features disclosed in the dependent claims.

As to condition II.6.2, there currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims (not just the independent and some selected dependent claims) that are disclosed in each of the cited references, specifying where each of the limitations (or portions thereof) are disclosed in each of the references. Applicant must specify where in each of the cited references the particular claim limitations are found. Any reference which teaches any portion of a claim limitation must be so identified even if the reference does not teach the entirety of the limitation. In the current petition, claims 5, 8-11, and 15-17 are not addressed by any of the references sited as most closely related to the claimed invention. A discussion concerning what limitations and portions of limitations are taught by the cited references should be included with respect to the omitted dependent claims, especially since claims 5, 8-11, and 15-17 are also not addressed in the section "the detailed explanation of patentability", which makes it unclear if the prior art addresses these limitation (or portions thereof).

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. While the explanation provided for the independent claims appears to be acceptable, the explanation needs to specify how each of the claims are patentable over each of the cited references, which includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims. Applicant does not mention claims 2-5, 7-18, or 20 and thus Applicant does not sufficiently specify whether each of these dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or whether the dependent claims are not separately patentable. This is specifically important since no references were identified in the section "Identification of Limitations Disclosed by References" that addressed claims 5, 8-11, and 15-17.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation in all independent and dependent claims, the petition needs to identify specific passages, or at least a single paragraph, where each limitation is supported. Listing general paragraph numbers without referencing specific claim limitations does not comply with what is required. Similar support (if any) for the claimed invention must additionally be shown in the parent application upon which priority is claimed under 35 USC 119. Specifically, for provisional application 60/810,891, a listing of where the limitations of the claims find support is necessary. Again, the petition needs to identify specific passages, or at least a single paragraph, where each limitation in all independent and dependent claims is supported (if any).

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 7/11/07

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OFFICE OF PETITIONS

In re Application of :
Kufer et al. :
Application No. 11/754792 :
Filing or 371(c) Date: 05/29/2007 :
Attorney Docket Number: :
DEBE:028USD1/10705013 : ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed May 13, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed June 29, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned August 30, 2007. A Notice of Abandonment was mailed March 13, 2008.

Applicant files the present petition and a response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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JUL 17 2007

TECHNOLOGY CENTER 3600

Kevin P. Braig
9055 O'Connor's Point Road
Belle Center, OH 43310

In re application of
Kevin P. Braig et al.
Application No. 11/754,797
Filed: May 29, 2007
For: TRADING SYSTEM AND METHOD FOR INSTITUTIONAL ATHELETIC AND EDUCATION PROGRAMS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on May 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 petition in this case fails to comply with conditions II.5.1, II.5.2, II.6.2, II.6.3, and II.6.5, above.

As to condition II.5.1, the pre-examination search is inadequate because it does not involve all required foreign patent documents or a justification that with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources. Specifically, while the Search Document identifies searches performed involving Japanese Patent Documents and EPO Documents, the pre-examination search does not involve WIPO documents or a statement justifying the elimination of this search. Further, while the Search Document states that USPTO, JPO, and EPO were searched and the files of USPAT, US-PGPUB, JPO, and EPO were searched, the Search Document does not identify the Database Services used to search these files. Therefore, the Search Document is insufficient because it does not involve all required foreign patent databases and because it does not identify the Database Services utilized to perform the searches.

As to condition II.5.2, the petition lacks an indication of a pre-examination search that encompasses all of the features of the claims. With regards to the USPTO, JPO, and EPO searches, while the classification search is acceptable covering the most relevant classifications, the petition lacks sufficient search logic to be said to encompass all the features of the claims. Independent claims 1, 7, and 15 include features such as a relationship or obligation between a student-athlete and an educational institution, as well as the educational institution providing or subsidizing a portion of the cost of the student-athlete to attend the institution. Further, the dependent claims add additional features such as athlete contractual commitments, one of settling and clearing a matched trade, and future contract exchange. However, these features were not searched. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:
(college$4 or university$4 or school$2 or (educational near2 instituition$2)) and ((athlet$2 or student-athlete$2) near3 (commit$5 or obligation$4)) and ((provid$4 or subsidiz$7) near4 (fee$4 or cost$2 or tuition$4)) and (trad$4 or contract$4)

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example of a starting off point for applicant's assistance.

Additionally as to condition II.5.2, with regards to the pre-examination search performed in Westlaw, Google, Online Banking/Finance/Investment Databases, and Miscellaneous Online services, while the NPL databases utilized are sufficient, the search logic outlined for these NPL resources is not sufficient to be said to encompass all the features of the independent and dependent claims, as discussed above.

As to condition II.6.2, there currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims (not just the independent and some selected

dependent claims) that are disclosed in each of the cited references, specifying where each of the limitations (or portions thereof) are disclosed in each of the references. Applicant must specify where in each of the cited references the particular claim limitations are found. Although references are provided which appear to disclose claimed limitations, where in the references these disclosures reside are not clear. For example, on pages 4-5 of the Support Document, Lange (U.S. 6,321,212) is cited as teaching limitations of claim 1. The citation is located at the very end of the claim, without specifying what specific limitations (or portions thereof) of the claim the citations address. Therefore, it is not clear if Applicant is asserting the whole claim is found in this citation, which is contrary to what is asserted in the "Detailed Explanation of Patentability".

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. While the explanation provided for the independent claims 1 and 15 appears to be acceptable, the explanation of patentability the explanation needs to specify how each of the claims are patentable over each of the cited references. First, independent claim 7 is not addressed in the explanation of patentability, but rather claim 1 is twice discussed. Further, the detailed explanation of patentability needs to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims. Applicant does not mention claims 2-6, 8-14, or 16-20 and thus Applicant does not sufficiently specify whether each of these dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or whether the dependent claims are not separately patentable

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation in all independent and dependent claims, the petition needs to identify specific passages, or at least a single paragraph, where each limitation is supported. Listing general paragraph numbers without referencing specific claim limitations does not comply with what is required. Similar support (if any) for the claimed invention must additionally be shown in the parent application upon which priority is claimed under 35 USC 119. Specifically, for provisional application 60/810,891, a listing of where the limitations of the claims find support is necessary. Again, the petition needs to identify specific passages, or at least a single paragraph, where each limitation in all independent and dependent claims is supported (if any).

Additionally with regards to condition II.6.5, the explanation provided of support for the means plus function limitations of claims 7 and 9-10 is insufficient. For each of the specific "means" limitations, the Support Document needs to describe what specific structure is provided in the specification that comprises the claimed limitation, and where this structure is located. In the current petition, the Support Document does not describe what specific structure is provided in the specification for the specific means plus function limitations in claims 7 and 9-10. The Support Document generally lists paragraph numbers and describes structures provided in the specification, it does not clearly link these to the "means" limitations of the claims.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 7/11/07

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OFFICE OF PETITIONS

In re Application of :
Ong, et al. :
Application No. 11/754,832 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 30101.353 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 15, 2008, requesting that the above-identified abandoned application be revived on the basis of unavoidable delay.

The petition under 37 CFR 1.137(a) 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(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed June 23, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 24, 2008. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner has stated that due to an error on his part, he inadvertently failed to print the Notice of Allowance (received via e-mail), which in turn led to the Notice and the issue fee payment deadline not being docketed.

It is true that a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

However, when the actor is a registered member of the patent bar, he is held to a higher standard than one of these aforementioned employees. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981). As such, such error can not be characterized as unavoidable within the meaning of 37 C.F.R. § 1.137(a).

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); 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 concerning 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
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MICROBAN PRODUCTS COMPANY
11400 VANSTORY DRIVE
HUNTERSVILLE NC 28078

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DEC 11 2008

In re Application of :
Ong, et al. :
Application No. 11/754,832 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 30101.353 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed November 14, 2008, requesting that the above-identified abandoned application be revived on the basis of unavoidable delay.

The petition under 37 CFR 1.137(a) 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(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed June 23, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 24, 2008. Applicants filed a petition to revive under 37 CFR 1.137(a) on October 15, 2008. However, the petition was dismissed in a decision mailed on November 12, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the

satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, **worthy and reliable employees**, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

In the petition filed October 15, 2008, Petitioner stated that due to an error on his part, he inadvertently failed to print the Notice of Allowance (received via e-mail), which in turn led to the Notice and the issue fee payment deadline not being docketed.

The November 12, 2008 decision stated that it is true that a delay resulting from an error (e.g., a docketing error) on the part of an **employee** in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887), emphasis added); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

However, the decision went on to note that when the actor is a registered member of the patent bar, he is held to a higher standard than one of these aforementioned employees. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981). As such, such error can not be characterized as unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The decision will now address the arguments presented on renewed petition.

1. Neither Applicant Nor Counsel Had Actual Knowledge of the Notice:

Applicant admits that he received the e-mail from the USPTO, reporting that there was new outgoing correspondence in the instant application (which turned out to be the June 23, 2008 Notice of Allowance). However, petitioner states that he "inadvertently" did not print the Notice, and as a result, it was not docketed.

Actual knowledge of the Notice of Allowance is irrelevant. The record supports, and applicant does not dispute, that the Notice of Allowance was delivered to petitioner. The fact that petitioner inadvertently did not open the document and print out a hard-copy is analogous to the situation where the Office mails applicant a Notice of Allowance, but applicant inadvertently forgets to open the envelope, see that there is a Notice of Allowance inside, and docket it accordingly. While such inadvertence on the part of applicant is clearly unintentional, it is not unavoidable.

2. Standard Applied to a Patent Practitioner:

Petitioner states that he readily agrees that a licensed patent practitioner can be held to a higher standard, and that "certainly, practitioners are expected to know the rules of

patent law/agency". However, that is not a correct interpretation of the decision, or USPTO practice. **Everyone** filing a patent application, whether pro-se or a licensed attorney or agent, is expected to know the applicable laws and rules regarding patent practice. That is why the Office strongly recommends that pro-se applicants seek the services of a registered attorney or agent.

The issue is when a practitioner entrusts a non-patent related aspect (such as a clerical function) to another third party, such as an employee. In that instance, what happens when that employee makes a mistake (e.g. in docketing), resulting in abandonment of the application? Clearly, this was out of the practitioner's hands. Recognizing this, the Office has set forth that such an error on the part of practitioner's **employee** will be considered to be unavoidable, provided that the practitioner show: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

Petitioner states that based on the decision, unavoidable error could never result from a docketing error unless the client were to retain docketing responsibilities himself. This is not the case. As set forth above, the unavoidable standard permits practitioners 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", then it constitutes unavoidable delay. However, when a practitioner decides not to rely upon a worthy and reliable employee to perform a function that the practitioner himself is not trained to do (such as a clerical function), but instead the practitioner performs that function himself, then any such error that occurs on the practitioner's part can not be said to be unavoidable.

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); 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 concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MICROBAN PRODUCTS COMPANY
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HUNTERSVILLE NC 28078

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JAN 16 2009

In re Application of :
Ong, et al. :
Application No. 11/754,832 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 30101.353 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed December 16, 2008, requesting that the above-identified abandoned application be revived on the basis of unavoidable delay.

The petition under 37 CFR 1.137(a) is **DENIED.**

This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

Procedural History:

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed June 23, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 24, 2008. Applicants filed a petition to revive under 37 CFR 1.137(a) on October 15, 2008. However, the petition was dismissed in a decision mailed on November 12, 2008. Applicant filed a renewed petition on November 14, 2008. However, the petition was once again dismissed in a decision mailed on December 11, 2008.

Relevant Rules and Regulations:

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, **worthy and reliable employees**, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Analysis:

In essence, petitioner has presented the following arguments with the instant petition and the prior petitions: (1) a docketing error caused the delay, (2) neither applicant nor counsel had actual knowledge of the Notice of Allowance, and (3) petitioner

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887), emphasis added); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

acted with the due care of a reasonably prudent person.

Petitioner explains that he received a "Private Pair Correspondence Notification" and a "Courtesy Reminder" postcard, both of which stated that new outgoing correspondence was available for the application. Neither of these documents "delivered" the Notice of Allowance to petitioner (either in text or as an attachment), "nor did either disclose or even hint that such a Notice had been issued." However, despite having knowledge that the Office had issued an action, Petitioner has stated that due to an error on his part, he inadvertently failed to print the Notice of Allowance, which in turn led to the Notice and the issue fee payment deadline not being docketed.

Actual knowledge of the Notice of Allowance is irrelevant. As part of the e-Office action Pilot Program, the Office informed petitioner that an action had been issued. That petitioner failed to print out the action to learn that it was a Notice of Allowance was not unavoidable.

Prior decisions on petition have acknowledged that it is true that a delay resulting from an error (e.g., a docketing error) on the part of an **employee** in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

However, when the actor is a registered member of the patent bar, he is held to a higher standard than one of these aforementioned employees. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981). As such, the error of applicant's attorney in performing a clerical function can not be characterized as unavoidable within the meaning of 37 C.F.R. § 1.137(a).

Nevertheless, petitioner argues that he, as a patent attorney, was trained on the docketing software, and has been performing

docketing functions daily for several years. Accordingly, petitioner argues that he acted with the due care of a reasonably prudent person.

As set forth above, the unavoidable standard permits petitioners to rely upon worthy and reliable employees, and if through the unforeseen fault of one of these employees there occurs an error, it may properly be said to be unavoidable, all other conditions being present. MPEP 711.03(c)(III)(C)(2) sets forth these conditions with respect to docketing errors that occur on the part of an employee.

Lastly, the case of In re Katrapat, 6 USPQ2d 1863 (Comm'r Pat. 1988), cited by petitioner, has been considered, but is not persuasive. In Katrapat, the docketing error at issue occurred by one of counsel's reliable employees. Here, rather than relying upon a worthy and reliable employee in the performance of a clerical function, petitioner chose to undertake the clerical function himself. As a result, while an unfortunate error by counsel occurred, it can not be said to be unavoidable within the meaning of 37 CFR 1.137(a) and MPEP 711.03(c)(III)(C)(2).

Alternative Venue:

While the showing of record has not been 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); 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.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
Ong, et al. :
Application No. 11/754,832 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 30101.353 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 19, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed June 23, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 24, 2008. her burden of establishing that the delay was "unavoidable."[1]

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay. The required reply in the form of the issue fee was previously submitted on October 15, 2008.

The application is being forwarded to the Office of Data Management for processing into a patent.

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[1] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries concerning 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
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Alexandria, Virginia 22313-1450
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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

Mail Date: 04/28/2010

Applicant	: Amir Abolfathi	: DECISION ON REQUEST FOR
Patent Number	: 7664277	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/754,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

LOWE HAUPTMAN & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA VA 22314

In re Application of	:	
Jonathan Davies et al.	:	DECISION ON PETITION
Application No. 11/754,874	:	PURSUANT TO
Filed: May 29, 2007	:	37 C.F.R.
Attorney Docket No. 4590-677	:	§ 1.53(e)(1)
Title: APPARATUS FOR PROCESSING AN INPUT SIGNAL	:	

This is a decision on the "Petition Under 37 CFR 1.57," filed August 21, 2007, requesting that the above-referenced application be accorded a filing date of May 29, 2007. This petition is being treated pursuant to 37 C.F.R. § 1.53(e)(1)[1].

Application papers in the above-identified application were deposited on May 29, 2007. However, on June 21, 2007, the Initial Patent Examination Division mailed Applicants a "Notice of Incomplete Nonprovisional Application," notifying Applicants *inter alia*, that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, Applicants timely filed this petition. In which, Petitioner acknowledges inadvertently omitting drawings on submission of the present application. Petitioner argued,

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1 Any request for review of a notification pursuant to paragraph (e)(1) of this section, 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 37 C.F.R. § 1.17(f). In the absence of a timely (37 C.F.R. § 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

however, that "entry of the attached drawings under 37 CFR 1.57(a) is merited because...the application as filed contains a foreign priority claim..."

It is noted that the present application claims the benefit of Great Britain application number 0610517.5, and the contents of the same have been incorporated by reference.

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. MPEP § 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to 37 C.F.R. § 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.

Accordingly, the Office should 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 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 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.

No petition is required. The amendment to include the inadvertently omitted drawings will be considered by the Examiner.

To the extent the present petition requests a filing date of

May 29, 2007 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee will be refunded to Deposit Account No. 07-1337, as authorized, in due course.

The Office of Patent Application Processing (OPAP) will be advised of this decision. Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to May 29, 2007**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing,** and;
- **for issuance of a filing receipt**.

Entry of the amendment filed August 21, 2007 will be determined by the Examiner.

Receipt of the concurrently submitted certified priority document and four sheets of drawings is acknowledged.

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.

Paul Shanoski
Senior 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,897	05/29/2007	Hajime YAMADA	36856.1550	8177

7590 10/22/2007

MURATA MANUFACTURING COMPANY, LTD.
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8180 GREENSBORO DRIVE
SUITE 850
MCLEAN, VA 22102

EXAMINER	
MCDONALD, RODNEY GLENN	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
10/22/2007	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 10/22/2007 KWING1
05730/2007 INTEPSW 00021049 11754897
02 FC:1111 -500.00 OP

Refund Ref:
10/22/2007 0030046066

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXX5008

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JAN 11 2010

In re Application of	:	
Ebens et al.	:	DECISION ON PETITION
Application No. 11/754,899	:	TO WITHDRAW
Filed: May 29, 2007	:	FROM RECORD
Attorney Docket No. P2262R1	:	

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 **NOT APPROVED** because it is moot.

A review of the file record indicates that on December 2, 2009 the power of attorney to Goodwin Procter LLP 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: GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

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APR 10 2008

OFFICE OF PETITIONS

In re Application of

Subhasish Purkayastha
Application No. 11/754,929
Filed: May 29, 2007
Attorney Docket No. 2007537-0040 (SYP6167)

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 7, 2008.

The requests are **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 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

cc: Subhasish Purkayastha
49 Lexington Drive
Acton, MA 01720

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06/14/2007

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

In re Application of: CITU et al
Serial No.: 11/754,939
Filed: May 29,, 2007
VEND 3367001
Title: DYNAMIC IMAGE DISPLAY

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on May 29,, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 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 an interview (including an interview before a first office action) 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 interpretation;

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 – I.4, II.1, II.3, II.4, II.5., II5.1, II.6.1, II.6.2, II.6.4 and II.6.6 above have been met. The petition fails to comply with conditions II.2, II.5.3, II.6.3, and II.6.5 above. Therefore, the petition fails to meet all the conditions required for special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I:)(E)[1] and item II.2 above, petitioner has not provided a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application.

Regarding the requirement of MPEP § 708.02(a)(I.)(H.)(3)[2] and item II.5.3 above, the preexamination search does not encompass the disclosed features that may be claimed. Petitioner's statement under requirement 8(C) of the PRE-EXAMINATION SEARCH DOCUMENT is insufficient to satisfy this requirement.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable over all the references most closely related to the subject matter of each of the claims with the particularity required by 37 CFR 1.111(b) and (c). Petitioner identifies the most closely related references in section 9(A), page 7 of the ACCELERATED EXAMINATION SUPPORT DOCUMENT. Specifically, petitioner does not point out any claim limitations believed to patentably distinguish the claimed invention from the other cited references mentioned on pages 3-10 of Table 2. An explanation needs to be made to specify whether the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. The USPTO website has an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, the Accelerated Examination Support Document does not include a showing of where each limitation of the claims finds support in Divisional application 11/394366 and Provisional application 60/665,856 from which the instant application claims benefit under 35 U.S.C. 120. Because the instant application claims the benefit of applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.

[1] MPEP 8th ed. rev 5 August 2006
[2] MPEP 8th ed. rev 5 August 2006

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 Pat Salce, Quality Assurance Specialist, at (571) 272-3610.

Pat Salce

Pat Salce
Quality Assurance Specialist
Technology Center 2100

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Technology Center 2100

08/7/2007

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

In re Application of: CITU et al
Serial No.: 11/754,939
Filed: May 29,, 2007
VEND 3367001
Title: DYNAMIC IMAGE DISPLAY

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 renewed petition filed on July 16, 2007 to make the above identified application special for accelerated examination procedures under 37 C.F.R. § 1.102(d). The original petition, submitted on May 29,, 2007 was dismissed in the decision mailed on June 14, 2007.

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 CFR 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 CFR 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 preappeal 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 CFR 1.181, 182 or 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 Pat Salce, Quality Assurance Specialist, at (571) 272-3610.

Pat Salce

Pat Salce
Quality Assurance Specialist
Technology Center 2100

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JUN 12 2009

OFFICE OF PETITIONS

In re Application of :
Yolanda Carmen Ferrara :
Application No. 11/754,977 : DECISION ON PETITION
Filed: May 29, 2007 : TO WITHDRAW
Attorney Docket No. YF0509 : 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 6, 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 23676 has been revoked by the Assignee of the patent application on May 5, 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: MICHAEL RIES
318 PARKER PLACE
OSWEGO IL 60543

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5901 THIRD ST SOUTH
ST PETERSBURG FL 33705

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OFFICE OF PETITIONS

In re Application of :
Robert M. CORNETT, SR. :
Application No. 11/755,034 : DECISION ON PETITION
Filed: May 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **CHH** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 26, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Robert Cornett's, attesting to his 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 3633 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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WEST PALM BEACH FL 33402-3188

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OFFICE OF PETITIONS

In re Application of :
LANDRY, John M. :
Application No. 11/755,056 : DECISION ON PETITION
Filed: May 30, 2007 : TO WITHDRAW
Attorney Docket No. **9754-1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 2009 and resubmitted on 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. 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 Andrew Gust on behalf of all attorneys of record who are associated with customer No. 30448. All attorneys/agents associated with the Customer Number 30448 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 June 16, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHN M. LANDRY**
121 HAMPTON CIRCLE
JUPITER FL 33458

cc: **BRUCE BERG**
CRIME ID, 103 ORCHID CAY DRIVE
PALM BEACH GARDENS FL 33418

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SUITE 500
AKRON, OH 44311

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MAY 27 2008

In re Application of :
TONKIN, Roxanne :
Application No. 11/755,069 : DECISION ON PETITION
Filed: May 30, 2007 : TO WITHDRAW
Attorney Docket No. **22823.45484** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Brouse McDowell LPA has been revoked by the applicant of the patent application on March 10, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROXANNE TONKIN**
3551 STATE ROUTE 44
ROOTSTOWN, OH 44272

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CST

7-20-07

In re application of
David M. Kuchar
Serial No. 11/755,098
Filed: May 30, 2007
For: TRANSPARENT BARRIER TAPE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on May 30, 2007 to make the above-identified application special under the accelerated examination program.

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 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 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 conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-5) are considered to have been met. However, the petition fails to comply with condition II, subsection 6.

A three page Information Disclosure Statement was presented upon filing, however none of those references cited on the IDS are discussed in the Accelerated Examination Support Document (AESD), other than the broad statement that "none of the prior art references searched or cited above anticipate the Present Claimed Invention under 35 U.S.C. § 102 nor is it his opinion that any of the said prior art references render the Present Claimed Invention obvious under 35 U.S.C. § 103". Note that there is a presumption that each of the cited references is considered most relevant to the claimed invention and that an identification of where all of the limitations in the claims that are disclosed in the references is required. Specifically, the features of the cited prior art have not been mapped to each and every claim limitation as required.

Furthermore, applicant is required to disclose if any of the references are disqualified under 35 U.S.C. § 103(c).

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 dismissed. The application will therefore be taken up by the examiner 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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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CST

8-30-07

In re application of	:	
David M. Kuchar	:	COMMUNICATION
Serial No. 11/755,098	:	REAGARDING ORDER
Filed: May 30, 2007	:	OF EXAMINATION
For: TRANSPARENT BARRIER TAPE	:	

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on July 20, 2007. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

As of August 27, 2007, neither a reply nor a renewed petition has been received. Accordingly, the application is no longer eligible for the accelerated examination program.

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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Ruediger Brede et al. :
Application No. 11/755,101 : ON PETITION
Filed: May 30, 2007 :
Attorney Docket No.: :
Q600.106.101/2007P50299US

This is a decision on the petition filed June 17, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 17, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 18, 2008. Accordingly, a Notice of Abandonment was mailed April 22, 2009.

This matter is being referred to Technology Center 2827 for appropriate action on the amendment filed June 17, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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PATENT GROUP GA030-43
GEORGIA-PACIFIC LLC
133 PEACHTREE STREET NE
ATLANTA GA 30303-1847

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NOV 14 2007

OFFICE OF PETITIONS

In re Application of :
Denys Leveugle :
Application No. 11/755,129 : DECISION ACCORDING STATUS
Filed: May 30, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 20323 (453 FR) :

This is in response to the petition under 37 C.F.R. § 1.47(b), filed October 17, 2007.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The petition and declaration have been reviewed and determined to be in compliance with 37 CFR 1.47(b). Specifically, petitioner has shown that inventor Leveugle refused to sign the declaration after having been presented with the application papers.

The application is hereby accorded Rule 47 status.

As provided in 37 CFR 1.47(c), the Office will provide notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice will also be provided in the Official Gazette.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DENYS LEVEUGLE
7 RUE DE L'OBERHOF
68240 KAYSERSBERG
FRANCE

COPY MAILED

NOV 14 2007

OFFICE OF PETITIONS

LETTER

In re Application of :
Denys Leveugle :
Application No. 11/755,129 :
Filed: May 30, 2007 :
Title: Method and Apparatus for :
Measuring Paper Sample Stiffness

Dear Mr. Leveugle:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX AZ 85004-2391

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
HEFLEY, Carl D. :
Application No. 11/755,155 : DECISION ON PETITION
Filed: May 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 114147.00003 CON : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 30, 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 the birth certificate, driver's license and passport of inventor Carl D. Hefley, 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 3747 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROBERT D. ATKINS
605 W. KNOX ROAD, SUITE 104
TEMPE AZ 85284

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of :
Carl D. Hefley :
Application No. 11/755,155 :
Filed: May 30, 2007 :
Attorney Docket No. 1414.0003 CON :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 2009 and September 8, 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 Robert D. Atkins on behalf of all attorneys of record who are associated with customer No. 84278.

All attorneys/agents associated with the Customer Number 84278 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 at the address indicated below.

Further, as a Notice of Appeal has been filed March 17, 2009 in the above-identified application, an Appeal Brief is currently required. Failure to timely submit one will result in abandonment of the application.

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: Carl D. Hefley
46125 E. Highway 60-70, Suite 31
Salome AZ 85348

UNITED STATES PATENT AND TRADEMARK OFFICE

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Barnes & Thornburg, LLP
P.O. Box 2786
Chicago, IL 60690-2786

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of :
Rudi Dittmar :
Application No. 11/755,157 : DECISION ON PETITION
Filed: May 30, 2007 : TO WITHDRAW
Attorney Docket No. 926512-105726 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 18, 2008.

The request is **APPROVED**.

A review of the file record indicates that Thomas J. Donovan of the firm Barnes & Thornburg, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 23644 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Rudi Dittmar
Hauptsraße 20
Wernshausen, 98590
Germany

cc: Welsh & Katz, Ltd.
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

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
11/755,157	05/30/2007	Rudi Dittmar	926512-105726

CONFIRMATION NO. 8667

POWER OF ATTORNEY NOTICE

23644
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

Date Mailed: 06/03/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/18/2008.

- 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/755,197	05/30/2007	Juhan Kim		8724

58471 7590 06/29/2007

JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE, CA 95129

EXAMINER	
ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
06/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Juhan Kim
5890 W. Walbrook Dr.
San Jose, CA 95219

JUN 29 2007

In re Application of: Juhan Kim Serial No.: 11/755,197 Filed: May 30, 2007 Title: DYNAMIC RANDOM ACCESS MEMORY	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the petition filed on May 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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; 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

All of the conditions of I. 1-4 and II. 1-4 above are considered to have been met. However, the petition fails to comply with the all the conditions set forth in II. 5 and 6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II. 5, there is no preexamination search statement or document. Since there is no preexamination search document including the required statement and the identification of the field of search including databases searched and search logic used, it cannot be determined if the search was adequate to satisfy the requirements of items 5.2 and 5.3.

Regarding the requirements of II. 6, the examination support document fails to satisfy items 6.2, 6.3, 6.4, 6.5 and 6.6. The examination does not include an identification of all the limitations in the claims that are disclosed by ***each*** reference cited on the information disclosure statement (IDS) as required by item 6.2. It does not include a detailed explanation of how ***each*** of the claims are patentable over ***each*** of the references cited with the particularity required by 37 CFR 1.111(b) and (c) as required by item 6.3. It does not include a concise statement of the utility of the invention as defined in each of the independent claims as required by item 6.4. It does not include a showing of where ***each limitation*** of the claims finds support under 35 USC 112, first paragraph, ***in the written description of the specification*** as required by item 6.5. It does not include an identification of any cited references that may be disqualified under 35 USC 103(c) as required by item 6.6.

37 CFR 1.111(b) states that "the reply must present arguments pointing out the specific distinctions believed to render the claims . . . ***patentable over the . . . references***." It further states that "a general allegation that the claims define a patentable invention without 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 "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."

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, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petition 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) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Juhan Kim
5890 W. Walbrook Dr.
San Jose, CA 95219

AUG 11 2007

In re Application of: Juhan Kim Serial No.: 11/755,197 Filed: May 20, 2007 Title: DYNAMIC RANDOM ACCESS MEMORY	: : : : : :	DECISION ON RENEWED PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the renewed petition filed on July 9, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). Although there was no actual renewed petition or request for reconsideration, the filing of a new support document and a pre-examination search document on July 9, 2007 is being taken as a renewed petition to make the above-identified application special.

The renewed petition to make the application special is **DENIED**.

A petition to make special was filed in the above-identified application under 37 C.F.R. § 1.102(d) on May 30, 2007. That petition was dismissed in a decision dated June 29, 2007 wherein a non-extendible period of 1 (one) month or 30 (thirty) days, whichever was longer, was set to request reconsideration.

The reasons for dismissal were no pre-examination search document and an inadequate support document. The support document failed to include: 1) an identification of all the limitations in the claims that were disclosed by each reference specifying where the limitation was disclosed in the cited reference; 2) 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); 3) a concise statement of the utility of the invention as defined in each of the independent claims; 4) a showing where each of the claim limitations found support under 35 USC 112, first paragraph in the written description of the specification; and 5) an identification of any cited references that may be disqualified under 35 USC 103(c).

The pre-examination search document filed on July 9, 2007 satisfies the requirements for a pre-examination search document. The new support document filed on July 9, 2007 corrects some of the deficiencies of the previous support document but not all of them. It clearly does not satisfy at least items 1) and 4) above.

As mentioned in the petition decision of June 29, 2007, item 6.2 of Conditions Regarding the Petition requires "an identification of all the limitations in the claims that are disclosed by each

reference specifying where the limitation is disclosed in the cited reference. The new support document filed on July 9, 2007 lists 5 U.S. patents and 1 publication. It states that an Information Disclosure Statement (IDS) has been filed herewith citing each of these references. The referred to IDS was not listed on the July 9, 2007 transmittal form and could not be located in the file. The IDS filed with the original petition on May 30, 2007 listed 8 patents, 1 publication and 1 World Organization document. The only reference from that IDS that is mentioned in the new support document filed on July 9, 2007 is the Nemati et al. publication.

For the U.S. Patent references that were cited in the new support document, instead of identifying all of the limitations in the claims of the present application that are disclosed by each reference, applicant copies the independent claims of the reference, lists the dependent claims of the reference and indicates that a claimed element of the reference is used as a read device and a write device, or as a data-storage circuit. Even if it did match the reference with the limitations of the claims of the present application, it fails to specify where the limitations are disclosed in the cited reference.

Similarly for the cited Nemati et al. publication, it appears that applicant just copied a paragraph of the publication. However, this cannot be determined for sure since applicant improperly did not provide a copy of the Nemati et al. publication or the World Organization document as required under 37 CFR 1.98 (a)(2). It is further noted that applicant used the wrong PTO-1449 form for most of the cited references on the IDS filed on May 30, 2007. U.S. patents and foreign patent documents (such as the World Organization document) should be cited in the appropriate location on a PTO/SB/08A form. The PTO/SB/08B form used by applicant should only be used for non-patent literature documents (such as the Nemati et al. publication).

As also mentioned in the petition decision of June 29, 2007, item 6.5 of Conditions Regarding the Petition requires "a showing of where ***each limitation*** (italics added) of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification." In other words, the support for each individual claim limitation should be indicated by reference to paragraph numbers in the written description of the specification. It is insufficient just to list figures in the drawings as support for all the claims.

For the above stated reasons, the renewed petition is denied. The application will therefore be taken up 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 the undersigned at (571) 272-1638.

Edward Westin

Edward Westin, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/755,197	05/30/2007	Juhan Kim	

CONFIRMATION NO.
8724

JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE CA 95129

Date Mailed: September 18, 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

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Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/755,197	05/30/2007	Juhan Kim	

JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE CA 95129

DATE MAILED: September 18, 2007

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed August 16, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRIAN ROFFE
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6111

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JUL 18 2008

In re Application of	:	
David S. Breed et al.	:	
Application No. 11/755,199	:	DECISION ON PETITION
Filed: May 30, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ATI-468	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 6, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a photocopy of the applicant's passport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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4 VENTURE, SUITE 250
IRVINE CA 92618

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Chih-Ling WANG et al. :
Application No. 11/755,210 : NOTICE
Filed: May 30, 2007 :
Attorney Docket No. **JCLA23804** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/755,230	05/30/2007	Hideki Sugiyama	CANO:527	8772

37013 7590 10/23/2009
ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn, VA 20147

EXAMINER	
BARRON JR, GILBERTO	

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
10/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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ROSSI, KIMMS & McDOWELL LLP
20609 Gordon Park Square, Suite 150
Ashburn VA 20147

In re Application of: Hideki Sugiyama.
Application No. 11/755230
Filed: May 30, 2007
For: **DEVICE MANAGEMENT SYSTEM, DEVICE MANAGEMENT APPARATUS, DEVICE MANAGEMENT METHOD, PROGRAM FOR IMPLEMENTING THE METHOD, AND STORAGE MEDIUM STORING THE PROGRAM**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

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OCT 23 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 15, 2009, to make the above-identified application special.

The petition is **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 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 found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Hassan Kizou, Quality Assurance Specialist
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

Mail Date: 04/21/2010

Applicant	: Dale Meek	: DECISION ON REQUEST FOR
Patent Number	: 7581440	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/755,231	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2007	: 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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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: John C. Bynum	: DECISION ON REQUEST FOR
Patent Number	: 7592959	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/755,242	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

MAILED

JUL 13 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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CANON U.S.A. INC. INTELLECTUAL
PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of: TODAKA, SHINJI
Application No. 11755308
Filed: May 30, 2007
For: SIGNATURE VERIFICATION APPARATUS, METHOD FOR CONTROLLING SIGNATURE VERIFICATION APPARATUS, SIGNING APPARATUS, METHOD FOR CONTROLLING SIGNING APPARATUS, PROGRAM, AND STORAGE MEDIUM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 30, 2010, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is
(a) a Paris Convention application which either
(i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims,

Or

(b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim,

Or

(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
(i) validly claims priority to an application filed in the JPO, or

(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the Japanese application(s);
b. An English translation of the allowable/patentable claim(s), if the claims were published in a language other than English); and
c. A statement that the English translation is accurate;

(3) Applicant must:
a. Ensure 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) and
b. Submit a claim correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. A copy of all the office action(s) (which are relevant to patentability), excluding "Decision to Grant a Patent" from each of the Japanese application(s) containing the allowable/patentable claim(s);
b. An English language translation of the JPO office action(s) (if the office action(s) are not in the English language); and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already filed in this application); and
b. Copies of all the documents cited in the JPO office action, except U.S. patents or U.S. patent application publications (unless already filed in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are found to comply with all the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Hassan Kizou/

Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/755,308	05/30/2007	Shinji Todaka	10035811US01	8903

34904 7590 07/14/2010

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

EXAMINER	
REDDY, SUNITA	

ART UNIT	PAPER NUMBER
2491	

NOTIFICATION DATE	DELIVERY MODE
07/14/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sivon.kalminov@cda.canon.com
marlene.klein@cda.canon.com
IPDocketing@cda.canon.com