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

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Mark Richard Brown, et al. :
Application No. 11/770,674 : DECISION ON PETITION
Filed: June 28, 2007 : TO WITHDRAW
Attorney Docket No. 075052-010400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 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 Franklin D. Ubell on behalf of all attorneys of record who are associated with customer No. 33717. All attorneys/agents associated with the Customer Number 33717 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

There is an outstanding Office action mailed June 24, 2009 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: MARK RICHARD BROWN
8989 HUDSON STREET #310
VANCOUVER, BRITHSH COLUMBIA V6P 6Y1
CANADA

cc: ALESTAR SAFETY CORPORATION, USA
485 WEST VAUGHN STREET
TEMPE, AZ 85340

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/770,674	06/28/2007	Mark Richard Brown	075052.010400

CONFIRMATION NO. 6764

POWER OF ATTORNEY NOTICE

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

Date Mailed: 10/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/02/2009.

- 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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Catherine T. Shalen :
Application No. 11/770693 : DECISION ON
Filing or 371(c) Date: 06/28/2007 : PETITION
Attorney Docket Number: 11927/117 :

This is a decision in response to the Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a) and MPEP 711.03(c) or, in the Alternative, Under 37 CFR 1.137(b) to Accept an Unintentionally Delayed Response, filed June 30, 2008.

This Petition Pursuant to 37 CFR 1.181(a) is hereby **dismissed**.

This Petition Pursuant to 37 CFR 1.137(b) is hereby **granted**

Background

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 July 30, 2007. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed a reply to the Notice on November 30, 2007; however, the reply was incomplete. Applicant was so notified in a Notice of Incomplete Reply (Nonprovisional), mailed December 13, 2007. No complete and proper response having been received, the application became abandoned on October 1, 2007. A Notice of Abandonment was mailed May 22, 2008.

Petition to withdraw the holding of abandonment under 37 CFR 1.181

Applicant files the present petition to withdraw the holding of abandonment and in support of the petition states that the Notice of Incomplete Reply (Nonprovisional) was not received.

Applicable Law, Rules and/or MPEP

Applicant is advised that, 37 CFR 1.135, Abandonment for failure to reply within time period, states:

(a) If an applicant of a patent application fails to reply within the time period

> provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Further to this, as provided in the Manual of Patent Examining Procedure,

> 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).

MPEP 711.03(C)(I)(A)

> [w]here 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. (Emphasis supplied).

MPEP 711.03(C)(I)

Analysis and conclusion

In this instance, the application became abandoned for failing to completely and properly reply to the Notice to File Missing Parts of Nonprovisional Application. The failure to receive the Notice of incomplete Reply (Nomnprovisional), does not warrant withdrawal of the holding of abandonment. Accordingly, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

Petition to revive under 37 CFR 1.137(b)

Applicant files the present petition and drawings in 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.

The petition fee has been charged to petitioner's deposit account.

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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of Kitsis et al. :
Application No. 11/770,708 : Decision on Petition
Filing Date: June 28, 2007 :
Attorney Docket No. MS319338.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action issued June 22, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on September 23, 2009. A Notice of Abandonment was issued January 27, 2010.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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

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

Technology Center Art Unit 2162 will be informed of the instant decision and the application, including the amendment filed February 2, 2010, 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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PO BOX 471581
CHARLOTTE NC 28247

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APR 28 2008

OFFICE OF PETITIONS

In re Application of :
William Pitt :
Application No. 11/770,732 : ON PETITION
Filed: June 28, 2007 :
Attorney Docket No. 1704.122.02 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 5, 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 a reply to the Notice to File Missing Parts mailed July 10, 2007. This Notice set an extendable period of two months from the mailing date of the Notice for submission of the statutory basic filing fee, an executed oath or declaration, and a late surcharge. No reply having been received, the application became abandoned on September 11, 2007. A Notice of Abandonment was mailed on March 20, 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]

Petitioner has stated that due to a possible error by an employee, patent agent Oana Graveline, the Notice to File Missing Parts may have been erroneously entered as having been responded to, when in fact it was not. However, petitioner is not certain if the erroneous docketing in this instance was due to Graveline, as sometimes partners would docket communications before Graveline had a chance to.

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,

---

[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).

23 USPQ2d 1910, 1913 (Fed. Cir. 1992); Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981). As such, assuming *arguendo* that the error in this instance was due to the fault of Graveline, nevertheless 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

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
William Pitt :
Application No. 11/770,732 : ON PETITION
Filed: June 28, 2007 :
Attorney Docket No. 1704.122.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2008, requesting that the above-identified abandoned application be revived on the basis of unintentional delay.

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

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts mailed July 10, 2007. This Notice set an extendable period of two months from the mailing date of the Notice for submission of the statutory basic filing fee, an executed oath or declaration, and a late surcharge. No reply having been received, the application became abandoned on September 11, 2007. A Notice of Abandonment was mailed on March 20, 2008.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee. The required reply was previously submitted on April 5, 2008.

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

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/770,784	06/29/2007	Hyun-woo KIM	104-1311	6939

7590 05/03/2010

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER
ROYER, WILLIAM J

ART UNIT	PAPER NUMBER
2852	

MAIL DATE	DELIVERY MODE
05/03/2010	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 Ref: [illegible]

Total Refund Total: [illegible]

Adjustment date: 05/03/2010 [illegible]

[illegible]

FORM PET651G (Rev. 08/07)

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Suite 500
ALEXANDRIA, VA 22314

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of :
Eduardo Ruiz Esparza FLORES et al. :
Application No. 11/770,813 :
Filed: June 29, 2007 :
Attorney Docket No. 9016-1017-1 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 19, 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 September 20, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of July 19, 2007 is accepted as having been unintentionally delayed.

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

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219-6404

Mail Date: 04/21/2010

Applicant	: Edward Charles Gage	: DECISION ON REQUEST FOR
Patent Number	: 7609469	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/770,873	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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DORR, CARSON & BIRNEY, P.C.
501 SOUTH CHERRY STREET
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DENVER CO 80246

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of
John A. Walker
Application No. 11/770,949
Filed: June 29, 2007
Attorney Docket Number: 3386/1

ON PETITION

This is a decision on the petition, filed May 17, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned May 4,2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on February 1, 2010. Accordingly, the Notice of Abandonment was mailed on May 18, 2010, after the filing of the instant petition.

The issue fee in the amount of $755.00, publication fee in the amount of $300 and the petition fee in the amount of $810 have been charged to deposit account no. 04-1414 per the authorization included with the petition.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/24/10

Patent No. :7669314
Inventor(s) :Feinn et al.
Issued :3/2/2010
Title : METHOD OF FABRICATING A FLUID EJECTTION DEVICE HAVING STORAGE STRUCTURE
Atty.doc./File No.

Request for Certificates of Correction

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

Inspection of the application for the patent reveals item [75] is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

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

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FROM DIRECTOR'S OFFICE

AUG 15 2007

TECHNOLOGY CENTER 3600

Carl M. Napolitano, Ph.D.
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 South Orange Ave., Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791

In re application of
John A. McMorris III et al.
Application No. 11/770,968
Filed: June 29, 2007
For: SYSTEM AND METHOD OF CREATING, AGGREGATING, AND TRANSFERRING ENVIRONMENTAL EMMISION REDUCTIONS

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

This is a decision on the petition filed on June 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 drawings not in compliance with rule 1.84 and 1.121(d), 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 "Notice to File Corrected Application Papers" for non-compliant drawings, dated 07/03/2007.

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: 08/13/2007

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

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

COPY MAILED

OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
MCMORRIS, John A. III et al. :
Application No. 11/770,968 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **31234.CON** : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Carl Napolitano on behalf of all attorneys of record who are associated with customer No. 39313. All attorneys/agents associated with the Customer Number 39313 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHN A. MCMORRIS, III**
542 SANDERLING DRIVE
INDIALANTIC FL 32903

cc: **XL TECHGROUP**
1901 SOUTH HARBOR CITY BLVD.
SUITE 300
MELBOURNE FL 32901

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.
11/770,968	06/29/2007	John A. McMorris III		7208

7590 08/14/2009

JOHN A. MCMORRIS, III
542 SANDERLING DRIVE
INDIALANTIC, FL 32903

EXAMINER	
BROOKS, MATTHEW L	
ART UNIT	PAPER NUMBER
3629	
MAIL DATE	DELIVERY MODE
08/14/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John A. McMorris, III
542 Sanderling Drive
Indialantic, Florida 32903

In re Application of: McMorris, III et al. Serial No.: 11/770,968 Filed: June 29, 2007 Title: SYSTEM AND METHOD OF CREATING, AGGREGATING, AND TRANSFERRING ENVIRONMENTAL EMISSION REDUCTIONS	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 in response to the submission denominated "Petition to Director under 37 CFR 1.181" received on September 4, 2007. The delay in processing this petition is regretted. Petitioner seeks relief under 37 CFR 1.181 from the decision mailed August 15, 2007 denying accelerated examination status for the instant application. The signatory of the August 15, 2007 decision denying accelerated examination status possessed delegated authority to act on behalf of the Technology Center Director in such matters. Therefore, the petition received on September 4, 2007 is a request for review of a decision of a Technology Center Director. Accordingly, the Office of the Deputy Commissioner for Patent Examination Policy has decision-making authority over Applicant's petition. M.P.E.P. § 1002.02(b)(15).

The petition under 37 CFR 1.181 to reconsider the denial of accelerated examination status for application No. 11/770,968 and to grant such status under 37 CFR 1.102 is **DENIED**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) on June 29, 2007 accompanied by a petition under 37 CFR 1.102(d) to make the application special under the accelerated examination program. See 71 Fed. Reg. 36,323.

On July 3, 2007, the United States Patent and Trademark Office (USPTO) issued a Notice to File Corrected Application Papers. The Notice required Applicant to submit replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The notice identified the deficiency in the drawings in that the drawings submitted to the Office were not acceptable because the application included photographs that appear capable of illustration and which are illegible after scanning (see 37 CFR 1.84(b)) (see Figures 12a-12b), the drawings must be reasonably free from erasures, alterations overwriting, interlineations, folds, and copy marks (see Figures 3, 8, 9a-9b, 11, 12a-12b, 17 and 18), the drawing have a line quality that is too light to be reproduced or text that is illegible (see 37 CFR 1.84(l) and (p) (1)) (see Figures 4b, 5, 7, 10-11, 12a-12b, 17 and 18), and numbers, letters and reference characters on the drawings must measure at least 0.32 cm (1/8 inch) in height (see Figure 11).

On August 1, 2007, Applicant responded to the notice to file corrected application papers by submitting substitute drawings for Figures 1-18.

On August 15, 2007, a decision was mailed by the USPTO denying Applicant's petition to make 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 cited the existence of an accurate and properly issued "Notice to File Missing Parts of Non-Provisional Application" as the justification for denying special examination status to the application.

On September 4, 2007, Applicant submitted the instant paper, which is being treated as a Petition under 37 CFR 1.181, requesting reconsideration of the August 15, 2007 denial of the petition to make special.

Applicable Regulations and Notice Sections

37 CFR § 1.84 Standards for drawings.

(b) *Photographs.*—
(1) *Black and white.* Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (e.g., immunological, western, Southern, and northern), auto-radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.
(2) *Color photographs.* Color photographs will be accepted in utility and design patent applications if the conditions for accepting color drawings and black and white photographs have been satisfied. See paragraphs (a)(2) and (b)(1) of this section.

...

(l) *Character of lines, numbers, and letters.* 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.

...

(p) *Numbers, letters, and reference characters.*
(1) 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.
(2) The English alphabet must be used for letters, except where another alphabet is customarily used, such as the Greek alphabet to indicate angles, wavelengths, and mathematical formulas.
(3) Numbers, letters, and reference characters must measure at least.32 cm. (1/8 inch) in height. They should not be placed in the drawing so as to interfere with its comprehension. Therefore, they should not cross or mingle with the lines. They should not be placed upon hatched or shaded surfaces. When necessary, such as indicating a surface or cross section, a reference character may be underlined and a blank space may be left in the hatching or shading where the character occurs so that it appears distinct.
(4) The same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character, and the same reference character must never be used to designate different parts.
(5) Reference characters not mentioned in the description shall not appear in the drawings. Reference characters mentioned in the description must appear in the drawings.

37 CFR § 1.102 Advancement of Examination

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

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:

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) The application, at the time of filing, 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.

...

Part VIII: More Information:

...

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 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, a notice to file missing parts, **a 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 of filing.*** (71 Fed. Reg. 36,323 at 36,327)

Decision

Petitioner requests reconsideration of the denial of the petition based upon petitioner's assertions that (a) the submitted drawings have been accepted in the past and that (b) Applicant in accordance with USPTO request, promptly submitted substitute drawings. Applicant requests reconsideration of the USPTO denial to have the current application prosecuted as special accelerated examination.

Under this program, the application must be, "*at the time of filing*" complete under 37 CFR 1.51 and in "*condition for examination*". These requirements include submission of drawings fully in compliance with 37 CFR 1.84. As the goal of this program is to advance prosecution of an application to final disposition, as defined by the Office, within 12 months from the date of filing, all applications must meet the requirements of the policy in order to meet the reduced examination time goals. The existence of a "Notice to File Corrected Application Papers" was the evidentiary basis for concluding the application was not in condition for examination. The

issuance of the "Notice to File Corrected Application Papers" was proper. Petitioner has responded and corrected the errors. Therefore, Petitioner implicitly acknowledged that the application was not in condition for examination at the time of filing.

Petitioner's arguments that such drawings (Figures 1-18) were accepted and "No requirement to submit replacement drawings was received by Applicant." in the parent application and related PCT application are not persuasive. Attached to this decision is a copy of Figures 11 and 12B as submitted[1] by Applicant.[2] A review of Figure 11 as originally submitted clearly indicates that some of the text are of a size and some of the lines are of a weight which make them illegible, and are thus not of a sufficient quality for reproduction. Upon review of Figure 12B it is immediately evident that aside from line weight deficiencies, there are boxes that appear as totally dark with no ability to determine the text they contain. In response to the Notice, Applicant submitted corrected drawings, in which Figure 11 was enlarged, the weight of the lines made heavier and the text made larger and legible. Similarly, in response to the Notice, Applicant also submitted replacement Figure 12B with larger, legible text and boxes without the shading that previously masked the text and made it unreadable. It appears that Figures 11 and 12B were submitted in paper in the parent application and the problem was in Applicant's scanning of the papers in the instant application. Applicant did not resubmit the originals (or provide paper copies of the originals) with argument as to their adequacy. Applicant must, when filing electronically, prepare drawings which will comply with the provisions of 37 CFR 1.84 when so filed. Furthermore, even if similar drawings filed electronically in other applications were not objected to, that would not be persuasive inasmuch as the rules which regulate the filing of any application are fixed. The policy with regulates accelerated examination is well published. Petitioner should assume full application of the policy and rules in every application filed. Further, what transpires in other applications is of no bearing or influence in the instant application.

Petitioner is reminded that the requirements include submission of drawings fully in compliance with 37 CFR 1.84 (as stated above). Each applicant must meet the requirements of the policy.

It is further noted that petitions to make special based upon applicant's health or age, as outlined in MPEP 708.02 III and IV respectively, are available to petitioner should the requirements of those programs be met.

CONCLUSION

For the above-stated reasons, the petition under 37 CFR 1.181 to reconsider a dismissal to make special application No. 11/770,968 is **DENIED**. Therefore, the USPTO will examine the above-identified application in accordance with standard examination procedures.

---

[1] Figures 11 and 12B are taken as representative. These sheets were printed from the PDF file uploaded by Applicant as received by the Office. The received PDF file is thereafter converted to a TIFF image for inclusion in the IFW. The original PDF format files are stored for a limited time at the Office.

[2] The deficiencies in figures 11 and 12B are explained in detail to show that the notice was not issued in error for at least the noted reasons.

This decision may be viewed as final agency action. See MPEP 1002.02.

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

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

Telephone inquiries related to this decision should be directed to Pinchus M. Laufer, Legal Advisor at (571) 272-7726.

Pinchus M. Laufer, Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy

Enc: 2 Sheets of Drawings

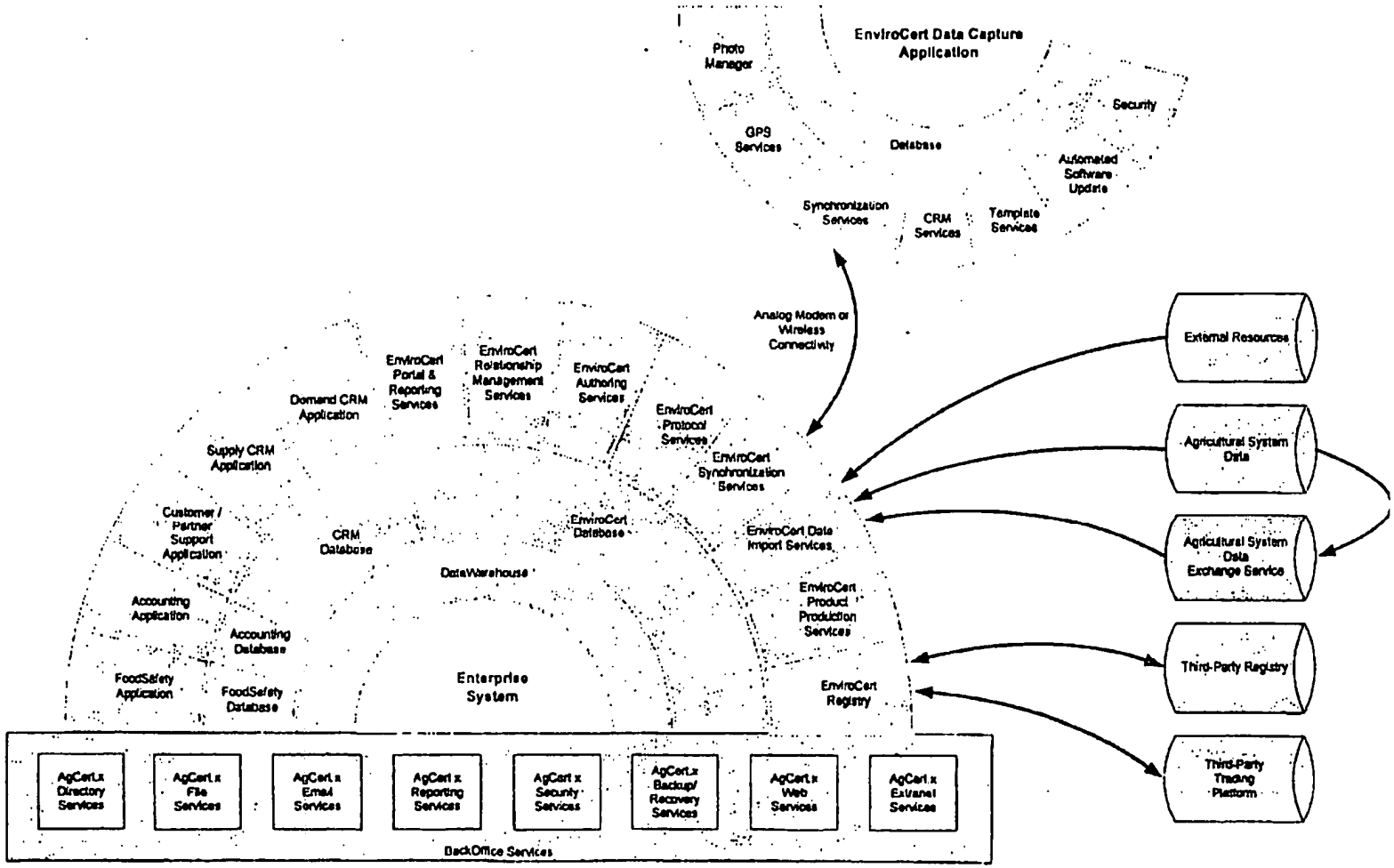
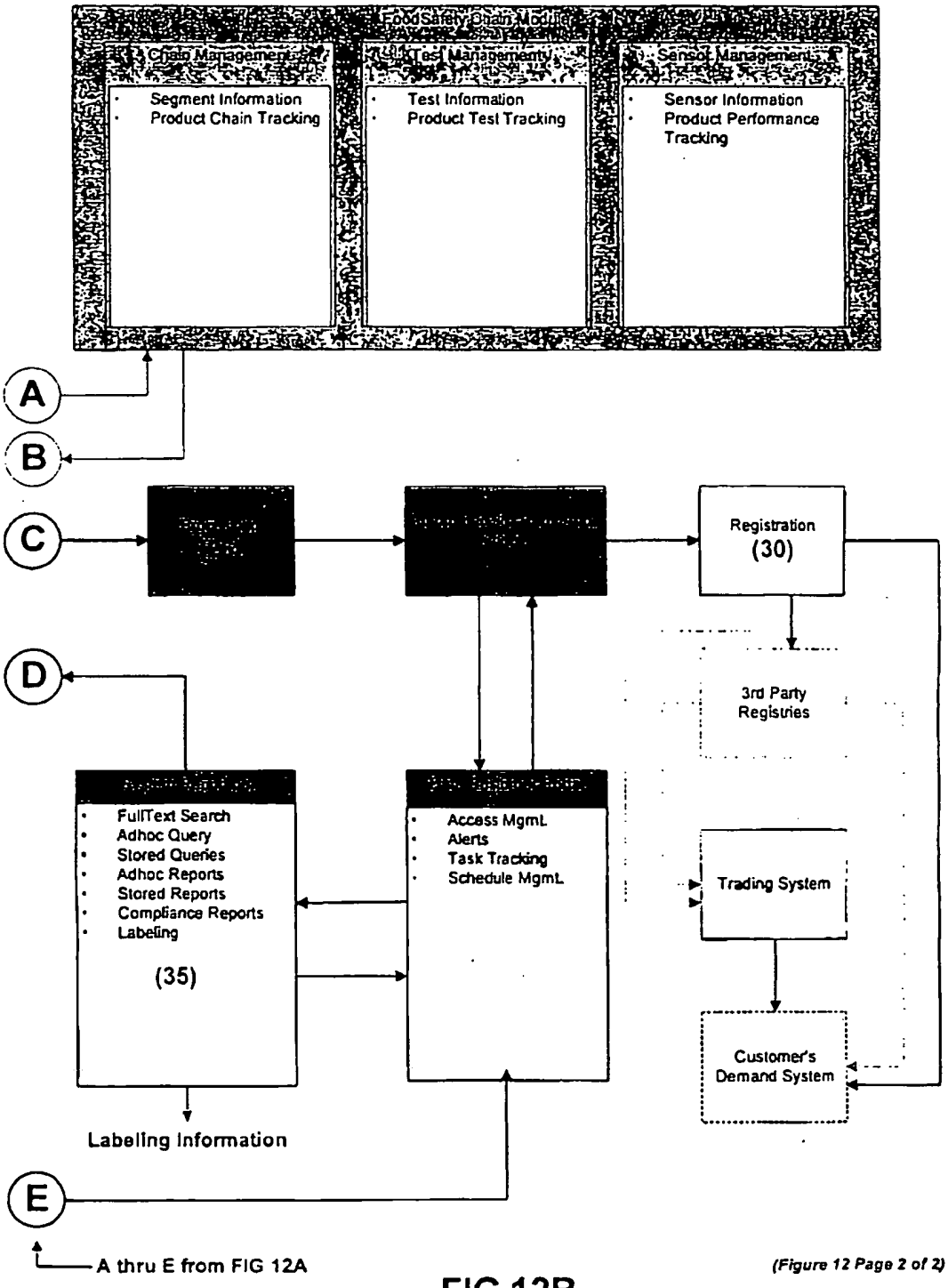

EnviroCert Data Capture Application
Photo Manager
Security
GPS Services
Database
Automated Software Update
Synchronization Services
CRM Services
Template Services
Analog Modem or Wireless Connectivity
External Resources
EnviroCert Portal & Reporting Services
EnviroCert Relationship Management Services
EnviroCert Authoring Services
Demand CRM Application
EnviroCert Protocol Services
Agricultural System Data
Supply CRM Application
EnviroCert Synchronization Services
Customer / Partner Support Application
CRM Database
EnviroCert Database
EnviroCert Data Import Services
Agricultural System Data Exchange Service
DataWarehouse
EnviroCert Product Production Services
Accounting Application
Accounting Database
Third-Party Registry
FoodSafety Application
FoodSafety Database
Enterprise System
EnviroCert Registry
Third-Party Trading Platform
AgCert.x Directory Services
AgCert.x File Services
AgCert.x Email Services
AgCert.x Reporting Services
AgCert.x Security Services
AgCert.x Backup/ Recovery Services
AgCert.x Web Services
AgCert.x Extranet Services
BackOffice Services

FIG 11



(Figure 12 Page 2 of 2)

FIG 12B

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

NOV 06 2009

OFFICE OF PETITIONS

In re Application of
David M. Rzasa et al
Application No. 11/770,988
Filed: June 29, 2007
Attorney Docket No. ASDI-009/04US/300225-2030

: 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 July 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications 10/845,035 and 10/097,530 set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement are required.

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 15 2010

OFFICE OF PETITIONS

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

In re Application of
David M. Rzasa et al
Application No. 11/770,988
Filed: June 29, 2007
Attorney Docket No. ASDI-009/04US/300225-2030

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed December 9, 2009 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 application set forth in the amendment filed with the renewed petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2877 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

/dab/
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
11/770,988	06/29/2007	2877	425	ASDI-009/04US/300225-2030	1	1

CONFIRMATION NO. 7235

CORRECTED FILING RECEIPT

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 03/15/2010

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)

David M. Rzasa, Boulder, CO;
Robert J. Faus, Boulder, CO;
Brian Curtiss, Boulder, CO;
Alexander F. H. Goetz, Boulder, CO;
John Enterline, Boulder, CO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 11/314,914 12/21/2005 PAT 7,317,525
which is a CON of 10/845,035 05/13/2004 PAT 7,006,214
which is a CON of 10/097,530 03/12/2002 PAT 6,771,369

Foreign Applications

If Required, Foreign Filing License Granted: 07/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/770,988**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

METHOD FOR VALIDATING A DISPENSED PHARMACEUTICAL

Preliminary Class

356

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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.
11/770,989	06/29/2007	Yasuyuki MURAMATSU	90606.225/ta	7237

7590 03/12/2009

YAMAHA HATSUDOKI KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

EXAMINER	
SCULLY, STEVEN M	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
03/12/2009	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:
03/13/2009 0030067660

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX5008

Adjustment date: 03/13/2009 NFARMER
06/29/2007 INTEFSW 00006061 11770989
02 FC:1111 -500.00 OP

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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LAW OFFICE OF JOHN J. SKINNER, JR., ESQ.
ATTN: JOHN J. SKINNER, JR.
36 REGENCY PLACE
WEEHAWKEN NJ 07086

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of :

KLYAMAN, Alan :
Application No. 11/771,012 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **00001/00001** : FROM RECORD

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 27, 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 John Skinner, the sole attorney of record. John Skinner has been withdrawn as attorneys or agents of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Alan Klyaman at the address indicated below. There is an outstanding Office action mailed April 23, 2010 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: **ALAN KLAYMAN**
309 LYON CIRCLE
P.O. BOX 740
LAHASKA PA 18931-0740

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

MAR 18 2009

OFFICE OF PETITIONS

Applicant: Chen, et al.
Appl. No.: 11/771,044
Filing Date: June 29, 2007
Title: METHOD AND SYSTEM FOR IMPLEMENTING MULTICAST USING SLAVE BLOCK IN DIGITAL SUBSCRIBER LINE ACCESS TECHNIQUE
Attorney Docket No.: HW701701
Pub. No.: 2008/0123647 A1
Pub. Date: May 29, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on July 14, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the benefit claim data is incorrect.

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 alleged error is due to the text of the Oath submitted August 7, 2007, wherein the application number appears to be 200410077712.K, not 200410077712.X as originally indicated.

The Filing Receipt mailed on 7/23/08 list the priority application number as 200410077712.X.

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

The Filing Receipt mailed on 8/14/08 list the priority application number as 200410077712.K

Applicant may consider filing an Application Data Sheet along with a request for a corrected filing receipt.

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

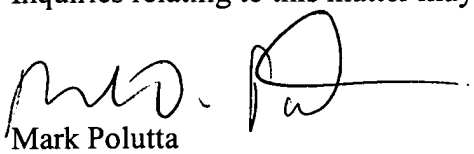
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" 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
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/21/2010

Applicant	: Wumao CHEN	: DECISION ON REQUEST FOR
Patent Number	: 7664053	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/771,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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J C PATENTS
4 VENTURE, SUITE 250
IRVINE CA 92618

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Ching-Wen CHANG	:	
Application No. 11/771,112	:	NOTICE
Filed: June 29, 2007	:	
Attorney Docket No. **JCLA23328**	:	

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

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

MAIL

JUN 22 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
KAWASAKI, SOMEI, et al.
Application No. 11/771,120
Filed: June 29, 2007
Attorney Docket No. **03500.136283**

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 May 10, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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).

Since examination has begun by the mailing of a first Office action on June 17, 2010, the request to participate in the Patent Prosecution Highway program is moot.

Kenneth A. Wieder
Quality Assurance Specialist
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

KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of
Haluk Kent Tanik
Application No. 11/771,165
Filed: June 29, 2007
Attorney Docket No. SDA-1165X-US (1694/46)

DECISION ON PETITION
TO WITHFRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed May 27, 2008.

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

A review of the file record indicates that the power of attorney to the firm of Klein, O'Neill & Singh, LLP has been revoked by the assignee of the patent application on July 11, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: SANDISK CORPORATION
JENKINS, WILSON, TAYLOR & HUNT, P.A.
SUITE 1200 UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM NC 27707

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.

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD ST.
RICHMOND VA 23219-4074

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OFFICE OF PETITIONS

In re Application of	:	
Douglas Lee Taylor et al.	:	
Date of Deposit: June 29, 2007	:	DECISION ON PETITION
Application No. 11/771,175	:	PURSUANT TO 37 C.F.R. § 1.57
Attorney Docket Number:	:	
21323.000363	:	
Title: POD PROPULSION SYSTEM	:	
WITH RIM-MOUNTED BEARINGS	:	

This is a decision on the petition filed August 9, 2007, pursuant to 37 C.F.R. § 1.57, requesting that the above-identified application, including a 14 page specification, be accorded a filing date of June 29, 2007, as part of the original disclosure.

The petition is **DISMISSED.**

The application was deposited on June 29, 2007. However, on August 6, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of a specification. The notice set a two-month period of reply.

It is noted that although a specification was not deposited on filing, Applicant did include a preliminary amendment to the specification, inserting the sentence "[t]he present application is a continuation of U.S. Application 10/948,061, filed September 23, 2004."

In response to the notice, on August 9, 2007, applicants filed the present petition. Petitioner has included, *inter alia*, the petition fee and a copy of the parent application (it is noted that the present application is a continuation of prior-filed Application number 10/948,061).

Petitioner has filed this petition, seeking the entry of 14 pages of specification (contained within the copy of the parent application), and has requested that both they and the present application be accorded a filing date of June 29, 2007, as part of the original disclosure.

Rule § 1.57(a) provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s).

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

> (1) (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).
>
> (2) **The application must be amended to include the inadvertently omitted portion of the specification** (emphasis added) or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

M.P.E.P § 201.06(c)(IV)(A) sets forth, *in pertinent part*:

> For an application filed on or after September 21, 2004, if the material needed for a filing date is completely contained within a prior-filed application to which benefit is claimed, **applicant may file a petition under 37 CFR 1.57(a)(3) along with the fee set forth in 37 CFR 1.17(f) and an amendment with the inadvertently**

> **omitted material requesting that the amendment be entered** (emphasis added) and the application be accorded a filing date as of the original date of deposit of the application papers. See 37 CFR 1.57(a)(3) and MPEP § 201.17.

As set forth above, the present application claims the benefit of non-provisional application number 10/948,061. Although the preliminary amendment to the specification that was presented on filing does not incorporate the contents of this prior-filed application by reference, pursuant to Rule § 1.57, the application as filed is considered to have incorporated by reference the prior-filed non-provisional application as to the inadvertently omitted specification.

In view of the incorporation by reference of the prior-filed non-provisional application, the specification supplied concurrently with this petition would not constitute new matter if it was a part of the original disclosure of the prior-filed application.

With this petition, Petitioner has submitted a copy of the prior-filed application, however, it does not appear that Petitioner has submitted an amendment directing the entry of the specification of the prior-filed application, as required by 37 C.F.R. 1.57(a)(2) and M.P.E.P. § 201.06(c)(IV)(A)[1]. As such, this 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 Pursuant to 37 C.F.R. § 1.57." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner may wish to consider submitting an amendment that directs the entry of the specification along 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].

---

1 See also 37 C.F.R. § 1.121(a).
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

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.

The general phone number for OIPE is 571-272-4000. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
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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Paper No.

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

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Douglas Lee Taylor et al.	:	
Date of Deposit: June 29, 2007	:	DECISION ON RENEWED PETITION
Application No. 11/771,175	:	PURSUANT TO 37 C.F.R. § 1.57
Attorney Docket Number:	:	
21323.000363	:	
Title: POD PROPULSION SYSTEM	:	
WITH RIM-MOUNTED BEARINGS	:	

This is a decision on the renewed petition filed March 17, 2008, pursuant to 37 C.F.R. § 1.57, requesting that the above-identified application, including a 14 page specification, be accorded a filing date of June 29, 2007, as part of the original disclosure.

The renewed petition is **DISMISSED.**

The concurrently submitted Revocation and Power of Attorney and New Power of Attorney by Assignee has been entered and made of record.

An original petition pursuant to Rule 1.57 was filed on August 9, 2007, and was dismissed via the mailing of a decision on March 4, 2008.

The application was deposited on June 29, 2007. However, on August 6, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be

accorded upon the deposit of a specification. The notice set a two-month period of reply.

It is noted that although a specification was not deposited on filing, Applicant did include a preliminary amendment to the specification, inserting the sentence "[t]he present application is a continuation of U.S. Application 10/948,061, filed September 23, 2004."

In response to the notice, on August 9, 2007, applicants filed an original petition pursuant to Rule 1.57 on August 9, 2007. Petitioner included, *inter alia*, the petition fee and a copy of the parent application (it is noted that the present application is a continuation of prior-filed Application number 10/948,061). Petitioner sought the entry of 14 pages of specification (contained within the copy of the parent application), and requested that both they and the present application be accorded a filing date of June 29, 2007, as part of the original disclosure.

Rule § 1.57(a) provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s).

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

> (1) (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).
>
> (2) **The application must be amended to include the inadvertently omitted portion of the specification** (emphasis added) or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in

§ 1.17(f).

M.P.E.P § 201.06(c)(IV)(A) sets forth, *in pertinent part*:

> For an application filed on or after September 21, 2004, if the material needed for a filing date is completely contained within a prior-filed application to which benefit is claimed, **applicant may file a petition under 37 CFR 1.57(a)(3) along with the fee set forth in 37 CFR 1.17(f) and an amendment with the inadvertently omitted material requesting that the amendment be entered** (emphasis added) and the application be accorded a filing date as of the original date of deposit of the application papers. See 37 CFR 1.57(a)(3) and MPEP § 201.17.

The original petition was dismissed via the mailing of a decision on March 4, 2008, which set forth, *in pertinent part*:

> As set forth above, the present application claims the benefit of non-provisional application number 10/948,061. Although the preliminary amendment to the specification that was presented on filing does not incorporate the contents of this prior-filed application by reference, pursuant to Rule § 1.57, the application as filed is considered to have incorporated by reference the prior-filed non-provisional application as to the inadvertently omitted specification.
>
> In view of the incorporation by reference of the prior-filed non-provisional application, the specification supplied concurrently with this petition would not constitute new matter if it was a part of the original disclosure of the prior-filed application.
>
> With this petition, Petitioner has submitted a copy of the prior-filed application, however, it does not appear that Petitioner has submitted an amendment directing the entry of the specification of the prior-filed application (emphasis included), as required by 37 C.F.R. 1.57(a)(2) and M.P.E.P. § 201.06(c)(IV)(A)[1]. As such, this petition cannot be granted.

This renewed petition cannot be granted for two reasons.

First, with this renewed petition, Petitioner has again failed to submit an amendment directing the entry of the specification of the prior-filed application, as required by 37 C.F.R. 1.57(a)(2) and M.P.E.P. § 201.06(c)(IV)(A)[2]. The petition makes reference to the inclusion of a second preliminary amendment, "requesting entry of the specification of parent application No. 09/948,061 filed on September 23, 2004." However no such amendment has been located in the electronic file.

---

1 See also 37 C.F.R. § 1.121(a).
2 Id.

Second, Petitioner has amended the priority claim, inserting an incorporation by reference statement that was not present on filing. This addition to the benefit claim is not acceptable since it improperly incorporates by reference the prior-filed international application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.57." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner may wish to consider submitting an amendment along with the second renewed petition that directs the entry of the specification and claims and does not improperly insert an incorporation by reference statement to the benefit claim.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

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.

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

The general phone number for OIPE is 571-272-4000. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

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

Paper No.

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

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Douglas Lee Taylor et al.	:	
Filed: June 29, 2007	:	DECISION ON PETITION
Application No. 11/771,175	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.182
21323.000363	:	
Title: POD PROPULSION SYSTEM	:	
WITH RIM-MOUNTED BEARINGS	:	

This is a decision on the second renewed petition filed May 27, 2008, pursuant to 37 C.F.R. § 1.57, requesting that the above-identified application, including a 14-page specification, be accorded a filing date of June 29, 2007, as part of the original disclosure. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182.

This petition is **GRANTED**.

The application was deposited on June 29, 2007. However, on August 6, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of a specification. The notice set a two-month period of reply.

It is noted that although a specification was not deposited on filing, Applicant did include a preliminary amendment to the specification, inserting the sentence "[t]he present application is a continuation of U.S. Application 10/948,061, filed September 23, 2004."

In response to the notice, applicants filed an original petition pursuant to Rule 1.57 on August 9, 2007. Petitioner included, *inter alia*, the petition fee and a copy of the parent application (it is noted that the present application is a continuation of prior-filed non-provisional application number 10/948,061). Petitioner sought the entry of 14 pages of specification (contained within the copy of the parent application), and requested that both they and the present application be accorded a filing date of June 29, 2007, as part of the original disclosure.

The original petition pursuant to Rule 1.57 was dismissed via the mailing of a decision on March 4, 2008, due to the fact that an amendment requesting the entry of the specification of the prior-filed application was not included.

A renewed petition pursuant to Rule 1.57 was filed March 17, 2008, and was dismissed via the mailing of a decision on May 12, 2008, as an amendment directing the entry of the specification was not included with the renewed petition. The decision further indicated that Petitioner had improperly amended the priority claim, inserting an incorporation by reference statement that was not present on filing.

The Office has since reconsidered its position regarding the incorporation-by-reference statement, due to the fact that page 3 of the transmittal sheet that was provided on filing contains an incorporation by reference statement pertaining to prior-filed application number 10/948,061.

An amendment was filed on August 12, 2008, re-inserting the incorporation-by-reference language that had been removed by the amendment that was filed on May 27, 2008.

As such, Petitioner has asserted that the 14-page specification was constructively present in this application on filing, by virtue of the incorporation by reference of the prior-filed non-provisional application to which benefit is claimed, pursuant to M.P.E.P. § 201.06(c)(IV)(A).

Petitioner's arguments and evidence have been considered.

M.P.E.P. § 201.06(c)(IV)(A) sets forth, *in pertinent part*:

> Material needed to accord an application a filing date may not be incorporated by reference unless an appropriate petition under 37 CFR 1.57(a)(3) or under 37 CFR 1.182 is granted. Until such a

> petition has been granted, the application will not be entitled to a filing date.
>
> ...
>
> In an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

35 U.S.C. § 120 sets forth, *in toto*:

> An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

As set forth above, this application claims the benefit of prior-filed non-provisional application number 10/948,061 and the contents of the same have been incorporated by reference. Thus, pursuant to 35 U.S.C. § 120, the application as filed is considered to have incorporated by reference the prior-filed non-provisional application as to the omitted specification.

With this petition, Petitioner has submitted another copy of the specification, along with an amendment directing the entry of the same.

In view of the incorporation by reference of the prior-filed non-provisional application, the specification submitted on May 27, 2008 concurrently with this petition would not constitute new matter if it were a part of the original disclosure of the prior-filed non-provisional application to which benefit is claimed.

The amendment received on May 27, 2008 will, of course, be reviewed by the Examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of prior-filed non-provisional application number 10/948,061, to which benefit is claimed.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing with a **filing date of June 29, 2007,** using the original application papers filed on that date, as well as the 14 pages of specification that were submitted on May 27, 2008. OPAP will then **mail a filing receipt**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See MPEP §§ 608.02(h) and 608.04.
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/771,200	06/29/2007	Jin-Soo JUNG	P2056US00	7575

7590 05/05/2009

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

EXAMINER	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
05/05/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/05/2009 0030069714

Credit Card Refund Total: $500.00

Ac Exp..: XXXXXXXXXXX2002

Adjustment date: 05/05/2009 NFARMER
07/02/2007 INTEFSW 00000079 11771200
02 FC:1111 -500.00 OP

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

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JUL 22 2008

In re Application of :

FEAGUE, Roy W. et al. :
Application No. 11/771,230 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **24540-13123** : FROM RECORD
:

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 29, 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 Antonia L. Sequeira on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There 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: **ROY W. FEAGUE**
164 SILVERWOOD DR.
SCOTTS VALLEY, CA 95066

cc: **REED SMITH LLP**
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

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

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JAN 12 2009

In re Application of :

DEVDHAR, Rakendu et al. :
Application No. 11/771,270 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **NEXE-017/00US 306342-2039** : FROM RECORD
:

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 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Daniel M. Bennett on behalf of all attorneys of record who are associated with customer No. 22903. 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 Rakendu Devdhar at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RAKENDU DEVDHAR**
18719 HARMONY WOODS LN.
GERMANTOWN, MD 20874

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

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DEC 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Gayne et al.	:	
Application No. 11/771,291	:	ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No.: 2006-0392.02	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 13, 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 May 14, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

The instant petition was not accompanied by a proper reply. As discussed in MPEP § 711.03(c) II.A.2.(a), a proper reply to a non-final Office action in a utility application is either an argument or an amendment under 37 CFR 1.111 or the filing of a continuing application under 37 CFR 1.53(b). The response filed with the Request for Continued Examination (RCE) was noted as an error by the EFS-Web system through which it was submitted. As a result, only blank pages were received such that nothing can be acted upon. In the event that a renewed petition is submitted, petitioner should include a proper response to the February 13, 2008 Office action with the renewed petition.

Also, an RCE is not a continuing application under 37 CFR 1.53(b) and, as such, is not a proper reply to a non-final Office action. Petitioner may request a refund of the RCE fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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BLDG. 082-1
LEXINGTON KY 40550-0999

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MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Gayne et al. :
Application No. 11/771,291 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No.: 2006-0392.02 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 13, 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 May 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2839 for appropriate action by the Examiner in the normal course of business on the reply received March 23, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/21/2010

Applicant	: Joseph A Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7666004	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/771,318	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **263** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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	: KeXiu Liu	: DECISION ON REQUEST FOR
Patent Number	: 7595957	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/771,363	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Bradley Donald TEYS, et al :
Application No. 11/771,372 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. WMK. 10004WOUS : FROM RECORD
:

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 24, 2009.

The request is **APPROVED**.

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

The request was signed by Allyn B. Rhodes on behalf of all the attorneys of record associated with Customer No. 45473.

The attorneys of record associated with Customer No. 45473 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 address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SANDS INNOVATIONS PTY.LTD.
LEVEL 3
74 ASTOR TERRACE
BRISBANE, QUEENLAND 4000
AUSTRALIA

cc: ALLYN B. RHODES
2801 SLATER ROAD
SUITE 120
MORRISVILLE, NC 27560

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Commissioner for Patents
United States Patent and Trademark Office
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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

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JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Bradley Donald TEYS, et al	:	CORRECTED
Application No. 11/771,372	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. WMK. 10004WOUS	:	FROM RECORD
	:	

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 24, 2009.

The request is **APPROVED**.

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

The request was signed by Allyn B. Rhodes on behalf of all the attorneys of record associated with Customer No. 45473.

The attorneys of record associated with Customer No. 45473 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 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

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LEVEL 3
74 ASTOR TERRACE
BRISBANE, QUEENLAND 4000
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cc: ALLYN B. RHODES
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MORRISVILLE, NC 27560

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/24/09 Paper No.:

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/771402 Patent No.: 7469833B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The Request for Certificate of Correction filed March 19, 2009 has been considered and approved.

/Steven S. Paik/ 2887
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/24/09 Paper No.: —

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/771402 : Patent No.: 7469833B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The Request for Certificate of Correction filed March 19, 2009 has been considered and approved.

/Steven S. Paik/ — SPE

2887 — Art Unit

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JUL 31 2007

07/29/2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,411
Filed: June 29, 2007
Docket: STL13638
Title: AGGREGATING STORAGE ELEMENTS USING A VIRTUAL CONTROLLER

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 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:
B
I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5, and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, it seems that the class/subclass 711/114 (Arrayed DASD devices) should have been included in the search since the claims are directed to arrayed storage devices.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" sections in the Examination Support Document, Applicant provides a brief discussion of Pittelkow reference, and states **Pittelkow appears to arguable disclose** a virtual controller. It is not clear what applicant's position is on the above limitation with respect to Pittelkow. Further applicant states that the controllers of Pittelkow would not be viewed as SEAs, but provides no explanation as to why these controllers would not be viewed as SEAs. Applicant goes on to state "even if they were (controllers were SEAs), the controllers are not configured ....". Applicant fails to provide any explanation for either of these rationales. Pittelkow does not seem to disclose any other claim limitation per this section in the Examination Support Document. Regarding the Pellegrino reference, applicant provides a brief general discussion of this reference, and states that Pellegrino "appears to disclose a virtual storage space, a plurality of storage elements, and a storage element aggregator". It is not clear from this statement whether applicant believes that Pellegrino discloses this feature or not. "Explanation of Patentability" section in the Examination Support Document does not provide any more insight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were

cited to be pertinent to the claimed invention, and reproduces, for the most part, the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document". Applicant is requested to clarify applicant's position regarding the Pittelkow and Pellegrino references.

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent 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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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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.
11/771,411	06/29/2007	CLARK EDWARD LUBBERS	STL13638	7901

7590 10/24/2007

McCarthy & Associates, PC
Suite 609
500 West Main
Oklahoma City, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	**PAPER NUMBER**
2187	

MAIL DATE	DELIVERY MODE
10/24/2007	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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OCT 24 2007

Technology Center 2100

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500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al. Serial No.: 11/771,411 Filed: June 29, 2007 Docket: STL13638 Title: AGGREGATING STORAGE ELEMENTS USING A VIRTUAL CONTROLLER	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 August 31, 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 June 29, 2007. That petition was dismissed in a decision mailed on July 31, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

Upon review of the Renewed Petition filed on August 31, 2007, the following deficiencies were noted:

Regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), Applicants were notified in the dismissal referred above, that **"the date of search must be provided for each database searched"**. However applicant **has not complied with this requirement** in the Renewed Petition to make special.

Further, regarding item II.6.3, applicants were notified that, in the AESD submitted with the original petition, the statement of patentability did not provide a detailed explanation of how each

of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needed 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 link (http://www.uspto.gov/web/patents/accelerated/) was provided for an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document. However, **Applicant has not provided a explanation of patentability with the renewed petition to point out to any claim limitation as being patentably distinguishing, nor has applicant addressed the question of whether the dependent claims were separately patentable**. Hence the deficiencies in this regard, as laid out in the petition dismissal mailed on July 31, 2007, have not been rectified by applicant in the Renewed Petition.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), applicant states that "review on a reference-by-reference basis took place within the various references in the respective classes/subclasses were carried out in an effort to locate relevant art". However, it is not clear from this statement whether all documents were searched in each class/subclass, or whether a text search was performed on the specified class/subclass, and the documents reviewed thereafter. Additionally, the class/subclass searched do not seem to encompass all the features of all the claims. For example, the claims are drawn to access to array of data storage devices forming a virtual storage space as can be seen by independent claims 1, 11, and 14. The claims include virtual controller comprising a "storage element aggregator". According to Brief Description of Drawings of instant application FIG. 6 provides a simplified functional representation of a selected SEA from FIG. 4. It is clearly seen in Fig.6 that RAID Storage Processors are part of "storage element aggregator". The definition for class 711/114 is as follows:

> 114 **Arrayed (e.g., RAIDs):**
>
> This subclass is indented under subclass 112. Subject matter where a plurality of direct access devices are arranged in an array and files or portions thereof are stored on more than one of the direct access storage devices.

Yet, class/subclass 711/114 was not searched by applicant to locate possible for relevant prior art, even though it was expressly suggested in the last petition dismissal, nor did the applicant provide any explanation why a search in this subclass is not likely to yield references any closer that those determined to be most closely related to the claimed invention .

Further, with respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) it was suggested that petitioner review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has not provided any new search logic, stating instead in the renewed

petition that: "The search logic as originally presented is sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is unclear from this statement whether the patentable features of the claimed invention were searched or not, since such features have not been clearly identified in the "Explanation of Patentability" section.

Applicants search strategy as filed in the original petition is as follows:

"virtual controller"
"storage aggregator"
"storage element" and aggregates
data and controller and (dual or parallel or multiple or aggregatS)
virtual and data and controller

Applicant has chosen not to provide a Pre-exam search document with the renewed petition. The search logic does not seem to include many the features included in the claim language, for example "storage element aggregator" "SEA concurrently issuing command to selected storage element" , "six concurrently active SEAs", "issuing commands to subplurality of storage elements", "Loop switch module(s)", etc., nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features .

The guidelines for Applicants under the New Accelerated Exam Procedure states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

The terms used in the search logic are seen as individually too broad and would certainly have resulted in tens of thousands of documents as there is no indication of their being used in any combination similar to that of the claims. For instance, a search of the US Patents database by the reviewer provided **407346 hits** for the search string "data and controller and (dual or parallel or multiple or aggregatS)", and **72066 hits** for the search string "virtual and data and controller" listed in applicants search logic above. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to be " sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is not clear how Applicants reviewed the search results to arrive at relevant prior art. Without including the further improvements to the search as outlined above, **the search is not seen as encompassing the broadest *reasonable* interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.**

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, it was suggested that Applicant provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicant has chosen not to provide a new AESD with the renewed petition. In the Support Document, that was submitted with the original petition, there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. The explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in each of the references.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4, Applicant has chosen not to provide a new AESD with the renewed petition, and hence the deficiency noted in the dismissal of the original petition, still holds. The concise statement of the utility presented in the AESD submitted with the original petition failed to provide ***utility of the invention as defined in each of the independent claims.***.

Applicant further argues in the renewed petition that the dismissal of the original petition was improper because "the DECISION arbitrarily substitutes its own judgment of what the inventive subject matter is directed to, and then finds fault that the Applicant did not use search terms not based on this judgment that do not actually appear in the claims. The DECISION places requirements upon the Applicant that go beyond those mandated by Office rules, and therefore is improper". The reviewer has recommended search areas and search logic consistent with where one of ordinary skill in the art would look to find structures relating to the problem to be solved of aggregating storage elements, to form a virtual storage space from a number of devices and controllers, and based upon the actual structure recited in the claims or that could be claimed, as required by the AE policy. The purpose of the recommended search is for petitioner to conduct a complete and thorough search and to have the best available prior art at his command so that the claims may be drafted to avoid that prior art. Stated differently, petitioner may not have it both ways: petitioner may not limit the search to areas without , for example, storage element aggregator's (SEA's) configured in a particular way while simultaneously arguing patentability over prior art because the prior art fails to teach such elements. If the element has not been specifically searched for, how can an argument for patentability be advanced?

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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AUG 20 2008

In re Application of :
Easwaran, Sri Navaneethakrishnan :
Application No. 11/771,442 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. IN02 0007 US2 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: KENNETH D. SPRINGER
VOLENTINE & WHITT, PLLC.
11951 FREEDOM DRIVE, SUITE 1260
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

05 MAY 2010

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

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, WA 98104-7092

In re Application of EASWARAN, Sri N.
Application No.: 11/771,442
Filed: June 29, 2007
Attorney Docket No.:853563.451D1
For: LOW LOCK TIME DELAY LOCKED LOOPS USING TIME CYCLE SUPPRESSOR

DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) and (a)(6)

This decision is in response to applicant's "Petition to Accept Late Priority Claim under 37 CFR 1.78(a)(3)" dated February 25, 2010[1], to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed international application (PCT/IB2003/05810) set forth in the application data sheet and amendment to the specification filed concurrently with the instant petition. Because the petition is seeking to add a claim to an earlier filed provisional application, the petition is also being treated as a 37 CFR 1.78(a)(6).

The petition is **DISMISSED**.

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

[1]The 25 February 2010 petition withdraws the petition filed 02 February 2010.

> the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

As to item (1), a petition under 37 CFR 1.78(a)(3) is not required to add reference to international application PCT/IB03/05810, as U.S. application 10/538,375 is the U.S. national phase of PCT/IB03/05810 and therefore has a filing date of the international application. See 35 U.S.C. 363. However, the petition does not comply with the requirements for a grantable petition under 37 CFR 1.78(a)(6), in that, a proper reference to the prior-filed provisional application has not been included in an amendment to the first sentence of the specification following the title or in an executed supplemental Application Data Sheet, as provided by 37 CFR §§ 1.78(a)(2)(iii).

Applicant is advised that a supplemental application data sheet (ADS) must bear a proper signature as required by 37 CFR 1.33(b). The ADS submitted with the present petition does not bear a proper signature as required by 37 CFR 1.33(b). Form PTO/SB/14 contains an appropriate signature block and can be obtained at http://www.uspto.gov/ebc/portal/efs/sb0014.fill.pdf. Applicant is further advised that a supplemental ADS must be titled in accordance with 37 CFR 1.76(c)(2).

Additionally, the reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b)

Furthermore, the present petition cannot be granted because the parent application 10/538,875 does not contain an appropriate reference to provisional application 60/433,213. See MPEP 201.11(III)(C), Reference to Prior Application states (emphasis added):

> The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. **Appropriate references must be made in each intermediate application in the chain of prior applications.** If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B

and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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COPY MAILED

SEP 18 2008

In re Application of

LIONETTI, Robert Edward et al.
Application No. 11/771,455
Filed: June 29, 2007
Attorney Docket No. **30163.41948**

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 02, 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 Heather Barnes on behalf of all attorneys of record who are associated with customer No. 26781. All attorneys/agents associated with the Customer Number 26781 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 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: **ROBERT E. LIONETTI**
65 RU DE LA FOREST
L7227 BERELDANGE, LUXEMBOURG

cc: **EMERSON, THOMSON & BENNETT**
777 WEST MARKET STREET
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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.
11/771,456	06/29/2007	Hiromu Inoue	311541US2	7985

7590 01/16/2009

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EXAMINER	
LYONS, MICHAEL A	
ART UNIT	**PAPER NUMBER**
2877	
NOTIFICATION DATE	**DELIVERY MODE**
01/16/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

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MAILED 07/30/2007

JUL 31 2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771492
Filed: June 29, 2007
Docket: STL13543
Title: VIRTUAL STORAGE SPACE WITH CYCLICAL WRAPPING GRID FUNCTION

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 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5 , and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. In addition, the date of search must be provided for each database searched.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" sections in the Examination Support Document, Applicant states **Nanda arguable appears to disclose** dividing a plurality of larger grains .....smaller grains. It is not clear what applicant's position is on the above limitation with respect to Nanda. Nanda does not seem to disclose any other claim limitation per this section in the Examination Support Document. Regarding the Watt reference, applicant provides a very brief general discussion of this reference, but fails to point out how this reference meets the claim limitation "a plurality of larger grains .....power of two number of smaller grains". "Explanation of Patentability" section in the Examination Support Document does not provide any more insight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were cited to be pertinent to the claimed invention, and reproduces, for the most part, the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document". Applicant is requested to clarify applicant's position regarding the Nanda

reference which, applicant states "arguably discloses" dividing a plurality of larger grains ... power of two number of smaller grains".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent 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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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.
11/771,492	06/29/2007	CLARK EDWARD LUBBERS	STL13543	8053

7590 10/25/2007

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EXAMINER
SPARKS, DONALD ALAN

ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
10/25/2007	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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McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771492
Filed: June 29, 2007
Docket: STL13543
Title: VIRTUAL STORAGE SPACE WITH CYCLICAL WRAPPING GRID FUNCTION

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 August 31, 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 June 29, 2007. That petition was dismissed in a decision mailed on July 31, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

Upon review of the Renewed Petition filed on August 31, 2007, the following deficiencies were noted with respect to conditions II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4, as explained below.

Regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), Applicants were notified in the dismissal referred above, that **"the date of search must be provided for each database searched"**. However applicant **has not complied with this requirement** in the Renewed Petition to make special.

Further, regarding item II.6.3, applicants were notified that, in the AESD submitted with the original petition, the statement of patentability did not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needed 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 link (http://www.uspto.gov/web/patents/accelerated/) was provided for an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document. However, **Applicant has not provided a explanation of patentability with the renewed petition to point out to any claim limitation as being patentably distinguishing, nor has applicant addressed the question of whether the dependent claims were separately patentable.** Hence the deficiencies in this regard, as laid out in the petition dismissal mailed on July 31, 2007, have not been rectified by applicant in the Renewed Petition.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), applicant states that "review on a reference-by-reference basis took place within the various references in the respective classes/subclasses were carried out in an effort to locate relevant art". However, it is not clear from this statement whether all documents were searched in each class/subclass, or whether a text search was performed on the specified class/subclass, and the documents reviewed thereafter.

Further, with respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) it was suggested that petitioner review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has not provided any new search logic, stating instead in the renewed petition that: "The search logic as originally presented is sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is unclear from this statement whether the patentable features of the claimed invention were searched or not, since such features have not been clearly identified in the "Explanation of Patentability" section.

Applicants search strategy as filed in the original petition is as follows:

data and stor$ and (wraps or grid)
data and (grains or segment)
data and (strips or RAID)
data and (wraps or deviceS) and distribut$
strips and grains and (stor$ or SCSI)
(disc or disk or device) and ("power of two")

Applicant has chosen not to provide a Pre-exam search document with the renewed petition. The search logic does not seem to include many the features included in the claim language, for example "distributing each larger grain across a non-power of two number of storage elements", "each storage element receiving the same number of smaller grains, "cyclical wrapping of grid function", "TLM with a wrapping grid offset" etc., nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features.

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

The terms used in the search logic are seen as individually too broad and would certainly have resulted in tens of thousands of documents as there is no indication of their being used in any combination similar to that of the claims. For instance, a search of the US Patents database by the reviewer provided **365999 hits** for the search string "data and (grains or segment)", and **162792 hits** for the search string "data and (strips or RAID)", and **415762 hits** for the search string "data and (wraps or deviceS) and distribut$", listed in applicants search logic above. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to be " sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, it was suggested that Applicant provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicant has chosen not to provide a new AESD with the renewed petition. In the Support Document, that was submitted with the original petition, there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. The explanation of the references did indicate what is generally disclosed in

the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in each of the references.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4, Applicant has chosen not to provide a new AESD with the renewed petition, and hence the deficiency noted in the dismissal of the original petition, still holds. The concise statement of the utility presented in the AESD submitted with the original petition failed to provide ***utility of the invention as defined in each of the independent claims.***.

Applicant further argues in the renewed petition that the dismissal of the original petition was improper because "the DECISION arbitrarily substitutes its own judgment of what the inventive subject matter is directed to, and then finds fault that the Applicant did not use search terms not based on this judgment that do not actually appear in the claims. The DECISION places requirements upon the Applicant that go beyond those mandated by Office rules, and therefore is improper". The reviewer has recommended search areas and search logic consistent with where one of ordinary skill in the art would look to find structures relating to the problem to be solved of aggregating storage elements, to form a virtual storage space from a number of devices and controllers, and based upon the actual structure recited in the claims or that could be claimed, as required by the AE policy. The purpose of the recommended search is for petitioner to conduct a complete and thorough search and to have the best available prior art at his command so that the claims may be drafted to avoid that prior art. Stated differently, petitioner may not have it both ways: petitioner may not limit the search to areas without , for example, a physical memory arranged into a virtual space and configured in a particular way while simultaneously arguing patentability over prior art because the prior art fails to teach such elements. If the element has not been specifically searched for, how can an argument for patentability be advanced?

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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07/30/2007

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JUL 31 2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,505
Filed: June 29, 2007
Docket: STL13535
Title: REQUEST PRIORITY SEEK MANAGER

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 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, the class/subclass searched does not seem to include the claimed invention. The claims seem to be drawn to caching, and hence 711/118 (caching), and 711/113 (caching for a DASD device) should have been included in the search at least. Further, the only reference that was cited as being relevant to the application (DeKoning) is classified in 710/220 with a cross-reference classification in 710/113 and 710/244; however none of these classes were searched for relevant prior art.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" and the "Explanation of Patentability" sections in the Examination Support Document indicate that the only reference that was cited to be most closely related to the claimed invention discloses none of the features of the claimed invention. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Finally, based upon the claimed subject matter of the instant application, a search in the following class and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: Class 710 Subclass 220; Class 711 subclasses 113 and 118). Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the only reference that was cited to be pertinent to the claimed invention, and reproduces most of the claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of

each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to be patentably distinguishing the claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent claims***.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.6 above, the accelerated examination support document fails to provide an identification of any cited references that may be disqualified under 35 USC 103(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, (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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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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.
11/771,505	06/29/2007	Clark Edward Lubbers	STL13494	8073

71222 7590 10/25/2007

MCCARTHY & ASSOCIATES
500 WEST MAIN , STREET , SUITE 609
OKLAHOMA CITY, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	

ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
10/25/2007	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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McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al. Serial No.: 11/771,505 Filed: June 29, 2007 Docket: STL13535 Title: REQUEST PRIORITY SEEK MANAGER	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 August 31, 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 June 29, 2007. That petition was dismissed in a decision mailed on July 31, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

The Renewed Petition, while complying with the requirements of conditions II.5, II 6.3, and II.6.4, is still found to be deficient with respect to conditions II.5.1 and II.5.2, and II.6.2.

With respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) petitioner was notified that **petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search**. Applicant states in the Explanation of Patentability section that "DeKoning '275 generally does not disclose **a seek manager residing in only one of the controllers defining individual command profiles, and a policy engine that continuously**

collects qualitative information about a network load to both controllers to dynamically characterize the load, and that governs the seek manager to continuously correlate each command profile in relation to the load characterization, as is recited by the language of all the independent claims. Furthermore, as set forth above in the "Identification of the Features of the Claims Disclosed by the Disclosed Reference," each of the **dependent claims** recites additional features not disclosed by DeKoning '275 and are **therefore all separately patentable**". Applicant also states (page 2 of Remarks) that "**the claimed embodiments are drawn to managing a seek manager to correlate respective command profiles for each controller to that of a qualitative characterization of a host load in a dual active-active controller storage array.".**

However the search logic presented in the original petition and unmodified in the renewed petition is as follows:

("array controller") and ("command queue" or "seek queue")

"array controller" and dual and ("active-active" or "dual-active" or "dual active") and ("seek profile" or "command profile" or "seek queue" or "command queue")

"array controller" and dual and ("active-active" or "dual-active" or "dual active") and (seek or profile or queue)

"array controller" and ("active-active" or "dual active") and (seek or order)

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

There is no indication in the original petition or the renewed petition that the feature of "a seek manager residing in only one of the controllers defining individual command profiles, and a policy engine that continuously collects qualitative information about a network load to both controllers to dynamically characterize the load, and that governs the seek manager to continuously correlate each command profile in relation to the load characterization"," (as claimed in claim 1, for example), "transfer parameters" (as claimed in claim 4, for example), "rate sensitive access commands", "latency sensitive access commands" (as claimed in claim 6, for example),, "LUN priorities" (as claimed in claim 10, for example), "writethrough cache commands" (as claimed in claim 10, for example), etc., were searched by applicant, nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **121 hits** for the search

string " ("array controller") and ("command queue" or "seek queue")", **3 hits** for the search string " "array controller" and dual and ("active-active" or "dual-active" or "dual active") and ("seek profile" or "command profile" or "seek queue" or "command queue")", **58 hits** for the search string " "array controller" and dual and ("active-active" or "dual-active" or "dual active") and (seek or profile or queue)", and **90 hits** for the search string " "array controller" and ("active-active" or "dual active") and (seek or order)", listed in applicants search logic above. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search using the indicating that applicant believes the previous search logic to "encompass the claimed subject matter". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: Foreign Patents/Apps: WIPO), applicant states that all references were considered in each class/subclass at least by title. Such a statement would have been acceptable if applicant had provided some details on what these documents were reviewed for. However, it is not clear from this statement to what extent the full disclosure of each of the documents were considered in each of the class/subclass searched, so as to effect a search encompassing ***all*** of the features of the claims, given their broadest interpretation, as required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, Applicants were notified that Applicants should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicants have responded by stating (on page 4 of Remarks) that " Applicant has in fact mapped the disclosure of DeKoning '275 to the extent possible with regard to the recited language of all the claims. Again, Applicant describes relevant disclosure of DeKoning '275 with respect to the subject matter of claims 1-4, and 14-16".

The explanation of the reference did indicate what is generally disclosed in the reference, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in the reference. For example, with respect to claim 1, the claim recites "A dual active-active array storage system comprising: a first controller with top level control of a first memory space; a second controller with top level control of a second memory space different than the first memory space; a seek manager residing in only one of the controllers defining individual command profiles derived from a combined list of data transfer requests from both controllers; and a policy engine that continuously collects qualitative information about a network load to both controllers to dynamically characterize the load, and that governs the seek manager to continuously correlate each command profile in relation to the load characterization.".

Applicants state ("Identification of the Features of the Claims Disclosed by the Disclosed References" section) that " DeKoning '275 discloses a dual active-active controller in FIG. 3, with master and slave controllers 11, 13 communicating via inter-controller communication block 61, 63. Transfer requests from both controllers 11, 13 reside in a master request list 303 in FIG. 4A.". While this describes what the DeKoning reference is drawn to, it does not provide a claim-by-claim mapping of the pertinent subject matter disclosed in the reference, **specifically identifying each claim limitation and corresponding disclosure within the reference**, **citing to specific relevant portions of each reference**. Applicant further states that "Independent claim 1 is not anticipated by DeKoning '275 at least because DeKoning '275 does not disclose a seek manager residing in only one of the controllers defining individual command profiles, and a policy engine that continuously collects qualitative information about a network load to both controllers to dynamically characterize the load, and that governs the seek manager to continuously correlate each command profile in relation to the load characterization.". Further, as explained in the sections above, this feature that is said to make the application patentably distinct over prior art, has not been included in applicant's search logic. Furthermore, limitations, such as the final limitation in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for the all the other claims.

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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Cierra, Inc. &
Townsend and Townsend and Crew, LLP
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San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
William Malecki et al. :
Application No. 11/771,528 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. 022128-000221US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 16, 2008.

The request is **APPROVED**.

A review of the file record indicates that Doug Portnow and all attorneys/agents with the firm Cierra, Inc. & Townsend & 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, all the attorneys 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 signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw.

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: William Malecki
510 Clayton Street
San Francisco, CA 94117

cc: Takahiri, Miura, Oblon, Spivak
1940 Duke Street
Alexandria, VA 22314

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/771,528	06/29/2007	William Malecki	022128-000221US

CONFIRMATION NO. 8119

POWER OF ATTORNEY NOTICE

65689
CIERRA, INC. &
TOWNSEND & TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 07/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2008.

- 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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120 S LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Penson, et al.	:	
Application No. 11/771,529	:	DECISION REFUSING STATUS
Filed: June 29, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 1410-67661	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 24, 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 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 after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing

inventor. Rule 47 applicant has not met requirements (1) and (2) above.

As to requirement (1), Rule 47 applicant has not demonstrated diligent effort in finding the non-signing inventor Brooks. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] Here, Rule 47 applicant states that a package was mailed to the last known address of inventor Brooks on August 21, 2007, but was returned as undeliverable. Knowing that Brooks is no longer at that residence, Rule 47 applicant has not provided any information of the steps taken to subsequently locate him. Applicant has provided no documentary evidence, such as a copy of an internet search, to support such a finding[2].

As to requirement (2), the declaration submitted on filing does not comply with 37 CFR 1.63. Each inventor has not signed a declaration identifying the other inventors. Regarding this, the Manual of Patent Examining Procedure states:

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).[3]

---

[1] MPEP 409.03(d).

[2] Such documentary evidence should be made part of the affidavit or declaration. See id.

[3] MPEP 201.03(B).

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	:	
Penson, et al.	:	
Application No. 11/771,529	:	DECISION REFUSING STATUS
Filed: June 29, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 1410-67661	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 14, 2008.

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

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee;

and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

As to requirement (1), Rule 47 applicant has not demonstrated diligent effort in finding the non-signing inventor Brooks. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] Petitioner has provided a copy of an internet search for Brooks. However, the search was limited to the city of Menasha, Wisconsin.

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

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FITCH EVEN TABIN & FLANNERY
120 S LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Penson, et al.	:	
Application No. 11/771,529	:	DECISION REFUSING STATUS
Filed: June 29, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 1410-67661	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 1, 2008.

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

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee;

and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

As to requirement (1), Rule 47 applicant has not demonstrated diligent effort in finding the non-signing inventor Brooks. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] On renewed petition, petitioner has presented a copy of an internet search for "Scott Brooks" in the state of Wisconsin. Eight different results were found. However, petitioner has not presented any evidence that any of those eight were contacted to learn if he was the Scott Brooks in question.

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

[1] MPEP 409.03(d).

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CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Penson, et al.	:	
Application No. 11/771,529	:	DECISION ACCORDING STATUS
Filed: June 29, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 1410-67661	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 28, 2008.

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

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of 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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SCOTT D BROOKS
2311 BITTERSWEET CT
MENASHA WI 54952

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of
Penson, et al
Application No. 11/771,529
Filed: June 29, 2007
Title: Coffee Flavour Modification Process

LETTER

Dear Mr. Brooks:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Client 21058
c/o DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Application of
Valery M. Dubin et al.
Application No. 11/771,536
Filed: June 29, 2007
Attorney Docket No. 21058/0207084-US0

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 10, 2009.

The request is **APPROVED**.

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

The request was signed by Marie Collazo on behalf of all attorneys/agents associated with customer number 75172. All attorneys/agents associated with customer number 75172 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 inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor at the first copied address below, since no assignee has properly intervened in this application. A courtesy copy of this decision will also be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application then the proper power of attorney documents and/or a Statement under 37 CFR 3.73(b) must be submitted.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Valery M. Dubin
5388 NW Lianna Way
Portland, OR 97229

cc: Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/771,536	06/29/2007	Valery M. Dubin	21058/0207084-US0

CONFIRMATION NO. 8132

POWER OF ATTORNEY NOTICE

75172
Client 21058
c/o DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

Date Mailed: 08/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2009.

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

/kainabinet/

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

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

In re Application of
Ulrike Roessner et al.
Application No. 11771558
Filed: June 29, 2007
Attorney Docket No. **QIM 2006 P 54692 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 CFR. § 1.36(b), filed June 16, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above-identified application has been revoked by the assignee who has intervened in the application on July 13, 2010. 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 the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: John S. Economou
202 Mamaroneck Ave., Third Floor
White Plains NY 10601

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07/28/2007

JUL 31 2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al. Serial No.: 11/771,595 Filed: June 29, 2007 Docket: STL13641 Title: COMMAND QUEUE MANAGEMENT OF BACK WATERED REQUESTS	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 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:

B

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5 , and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, it seems that the class/subclass 711/118 (caching), and 711/113 (caching for a DASD device) should have been included in the search since the claims involve caching.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" sections in the Examination Support Document, Applicant states **Fox arguable discloses** releasing requests (commands) from a queue .... It is not clear what applicant's position is on the above limitation with respect to Fox. Fox does not seem to disclose any other claim limitation per this section in the Examination Support Document. Regarding the Espeseth reference, applicant provides a very brief general discussion of this reference, but fails to point out how this reference meets the claim limitation "releasing a **selected** request from a command queue". "Explanation of Patentability" section in the Examination Support Document does not provide any more insight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were cited to be pertinent to the claimed invention, and reproduces, for the most part, the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination

Support Document". Applicant is requested to clarify applicant's position regarding the Fox and Espeseth referencse which, applicant states "arguably discloses" releasing requests (commands) from a queue".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent 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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan WQAS Technology Center 2100

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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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/771,595	06/29/2007	CLARK EDWARD LUBBERS	STL13639	8213

7590 10/24/2007

McCarthy & Associates, PC
Suite 609
500 West Main Street
Oklahoma City, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
10/24/2007	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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Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,595
Filed: June 29, 2007
Docket: STL13641
Title: COMMAND QUEUE MANAGEMENT OF BACK WATERED REQUESTS

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 August 31, 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 June 29, 2007. That petition was dismissed in a decision mailed on July 31, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

Upon review of the Renewed Petition filed on August 31, 2007, the following deficiencies were noted with respect to conditions II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4, as explained below.

Regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), Applicants were notified in the dismissal referred above, that **"the date of search must be provided for each database searched"**. However applicant **has not complied with this requirement** in the Renewed Petition to make special.

Further, regarding item II.6.3, applicants were notified that, in the AESD submitted with the original petition, the statement of patentability did not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needed 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 link (http://www.uspto.gov/web/patents/accelerated/) was provided for an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document. However, **Applicant has not provided an explanation of patentability with the renewed petition to point out to any claim limitation as being patentably distinguishing, nor has applicant addressed the question of whether the dependent claims were separately patentable**. Hence the deficiencies in this regard, as laid out in the petition dismissal mailed on July 31, 2007, have not been rectified by applicant in the Renewed Petition.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), applicant states that "review on a reference-by-reference basis took place within the various references in the respective classes/subclasses were carried out in an effort to locate relevant art". However, it is not clear from this statement whether all documents were searched in each class/subclass, or whether a text search was performed on the specified class/subclass, and the documents reviewed thereafter.

Additionally, the class/subclass searched do not seem to encompass all the features of all the claims. It was suggested in the dismissal of the original petition that class/subclass 711/118 (caching), and 711/113 (caching for a DASD device) be included in the search since the claims involve caching. Applicant argues in the renewed petition that "The DECISION required that "caching" be included in the search. The Applicant respectfully points out that "caching" is not a term that appears in the claims, and that one with skill in the art would be able to distinguish between "caching," which is not the subject matter claimed by the present application, and a "command queue," which is.". In response, it is noted that the exact word (for example the word "caching") does not need to appear in the claim for a specific area to be searched. For example, the claims are drawn to "An apparatus comprising a control block configured to release a selected request from the queue and interrupt ..." (refer claim 10). Applications specification of the instant application discloses (on pages 3-4) "FIG. 4 depicts selected portions of the controller 134 in greater detail. A data buffer 140 serves as a **cache** memory to temporarily store data being transferred between the storage device 100 and the host device 138. Associated commands are received and processed by a control block 142 of the controller 134.". It is apparent that cache is an integral part of applicant's claimed apparatus of independent claim 10 though cache is not claimed. More evidence of this is also found in page 5 of applicant's specification, which discloses "During periods of relatively high host I/O activity levels, the command queue 144 may become full; that is, the queue depth may reach 16 or whatever other maximum capacity N is provided for the queue. In such case, the control block 142 will accumulate and hold back additional commands received from the host 138 until additional slots become available in the command queue 144. In accordance with various embodiments, a late arriving status timer

(LAST) 146 and a late request counter 148 are provided in conjunction with the command queue 144. The LAST 146 is a byte array that is preferably **cache line aligned with the various slots** of the command queue 144, and the late request counter 148 is incrementally set in relation to the LAST 146.". Command queue with N slots is part of at least claims 7 and 15. Yet, class/subclass 711/118 (caching), and 711/113 (caching for a DASD device) were not searched by applicant, even though it was expressly suggested in the last petition dismissal, nor did the applicant provide any explanation why a search in this subclass is not likely to yield references any closer that those determined to be most closely related to the claimed invention .

Further, with respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) it was suggested that petitioner review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has not provided any new search logic, stating instead in the renewed petition that: "The search logic as originally presented is sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is unclear from this statement whether the patentable features of the claimed invention were searched or not, since such features have not been clearly identified in the "Explanation of Patentability" section.

Applicants search strategy as filed in the original petition is as follows:
(command or request) and (queue or delay or backwaters or releaseS)
(command or request) and data and queue
device and (command or request) and queue

Applicant has chosen not to provide a Pre-exam search document with the renewed petition. The search logic does not seem to include many the features included in the claim language, for example "interrupting release of requests from the queue based on reaching a predetermined threshold", "incrementing/decrementing timeout count", "command queue with N slots", "Control block configured to release/interrupt requests" etc., nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features.

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.:

A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

The terms used in the search logic are seen as individually too broad and would certainly have resulted in tens of thousands of documents as there is no indication of their being used in any combination similar to that of the claims. For instance, a search of the US Patents database by the

reviewer provided **295717 hits** for the search string "(command or request) and (queue or delay or backwaters or releaseS)", and **61447 hits** for the search string "(command or request) and data and queue", and **54821 hits** for the search string "device and (command or request) and queue", listed in applicants search logic above. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to be " sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, it was suggested that Applicant provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicant has chosen not to provide a new AESD with the renewed petition. In the Support Document, that was submitted with the original petition, there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. The explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in each of the references.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4, Applicant has chosen not to provide a new AESD with the renewed petition, and hence the deficiency noted in the dismissal of the original petition, still holds. The concise statement of the utility presented in the AESD submitted with the original petition failed to provide ***utility of the invention as defined in each of the independent claims.***

Applicant further argues in the renewed petition that the dismissal of the original petition was improper because "the DECISION arbitrarily substitutes its own judgment of what the inventive subject matter is directed to, and then finds fault that the Applicant did not use search terms not based on this judgment that do not actually appear in the claims. The DECISION places requirements upon the Applicant that go beyond those mandated by Office rules, and therefore is improper". The reviewer has recommended search areas and search logic consistent with where one of ordinary skill in the art would look to find structures relating to the problem to be solved of aggregating storage elements, to form a virtual storage space from a number of devices and controllers, and based upon the actual structure recited in the claims or that could be claimed, as required by the AE policy. The purpose of the recommended search is for petitioner to conduct a complete and thorough search and to have the best available prior art at his command so that the claims may be drafted to avoid that prior art. Stated differently, petitioner may not have it both

ways: petitioner may not limit the search to areas without , for example, apparatus with a control block configured in a particular way while simultaneously arguing patentability over prior art because the prior art fails to teach such elements. If the element has not been specifically searched for, how can an argument for patentability be advanced?

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director TC 2100

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In re Application of: Lubbers et al.
Serial No.: 11/771,685
Filed: June 29, 2007
Docket: STL13540
Title: BI-LEVEL MAP STRUCTURE FOR SPARSE ALLOCATION OF VIRTUAL STORAGE

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 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5, and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. It seems that class 370/395.31 should have been searched since one of the references (Choe reference) deemed most closely related to the claimed invention is classified in that class/subclass.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" sections in the Examination Support Document, Applicant provides a brief discussion of Lubbers and Choe references, but does not match any claim limitations in the instant application to any portions in either of the references. Lubbers and Choe do not seem to disclose any other claim limitation per this section in the Examination Support Document. "Explanation of Patentability" section in the Examination Support Document does not provide any more insight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were cited to be pertinent to the claimed invention, and reproduces, for the most part, the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent 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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/771,685	06/29/2007	CLARK EDWARD LUBBERS	STL13540	8348

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EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	**PAPER NUMBER**
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10/24/2007	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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In re Application of: Lubbers et al.
Serial No.: 11/771,685
Filed: June 29, 2007
Docket: STL13540
Title: BI-LEVEL MAP STRUCTURE FOR SPARSE ALLOCATION OF VIRTUAL STORAGE

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 September 4, 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 June 29, 2007. That petition was dismissed in a decision mailed on August 1, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

Upon review of the Renewed Petition filed on September 4, 2007, the following deficiencies were noted with respect to conditions II.5.1 and II.5.2, II.6.2, and II 6.3, as explained below.

Regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), Applicants were notified in the dismissal referred above, that **"the date of search must be provided for each database searched"**. However applicant **has not complied with this requirement** in the Renewed Petition to make special.

Further, regarding item II.6.3, applicants were notified that, in the AESD submitted with the original petition, the statement of patentability did not provide a detailed explanation of how each

of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needed 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 link (http://www.uspto.gov/web/patents/accelerated/) was provided for an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document. However, **Applicant has not provided a explanation of patentability with the renewed petition to point out to any claim limitation as being patentably distinguishing, nor has applicant addressed the question of whether the dependent claims were separately patentable**. Hence the deficiencies in this regard, as laid out in the petition dismissal mailed on August 1, 2007, have not been rectified by applicant in the Renewed Petition.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), applicant states that "review on a reference-by-reference basis took place within the various references in the respective classes/subclasses were carried out in an effort to locate relevant art". However, it is not clear from this statement whether all documents were searched in each class/subclass, or whether a text search was performed on the specified class/subclass, and the documents reviewed thereafter. Additionally, the class/subclass searched do not seem to encompass all the features of all the claims. For example, the claims are drawn to access to array of data storage devices forming a virtual storage space as can be seen by the claims. The definition for class 711/114 is as follows:

> 114 **Arrayed (e.g., RAIDs):**
>
> This subclass is indented under subclass 112. Subject matter where a plurality of direct access devices are arranged in an array and files or portions thereof are stored on more than one of the direct access storage devices.

Yet, class/subclass 711/114 was not searched by applicant, nor did the applicant provide any explanation why a search in this subclass is not likely to yield references any closer that those determined to be most closely related to the claimed invention.

Further, with respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) it was suggested that petitioner review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has not provided any new search logic, stating instead in the renewed petition that: "The search logic as originally presented is sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is unclear from this statement whether the patentable features of the claimed invention were searched or not, since such features have not been clearly identified in the "Explanation of Patentability" section.

Applicants search strategy as filed in the original petition is as follows:

"skip list"
virtual and (data or stor$ or table or hash)
("virtual block address$" or "VBA") and maps

Applicant has chosen not to provide a Pre-exam search document with the renewed petition. The search logic does not seem to include many the features included in the claim language, for example "using skip list to map each of a plurality of non-overlapping ranges of virtual block addresses (VBAs) of the virtual storage space as individual nodes", "segmented bottom level map", "even long link entries", "flat bottom level map", etc., nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **354 hits** for the search string "("virtual block address$" or "VBA") and maps", and 153 hits for search string " "skip list" " listed in applicants search logic above. The other search string listed "virtual and (data or stor$ or table or hash)" produced too many truncations to be able to be effectively searched. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to be " sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, it was suggested that Applicant provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicant has chosen not to provide a new AESD with the renewed petition. In the Support Document, that was submitted with the original petition, there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. Applicant states (on page 2 of renewed petition) that "The DECISION further erroneously states that insufficient "mapping" was presented between the claim language and the identified Lubbers '406 and Choe '320 references". The explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in each of the references.

Applicant states (on page 3 of renewed petition) that "The Applicant respectfully takes issue with the characterization made by the DECISION that the two listed Lubbers '406 and Choe '320 references are not closely related to the inventive subject matter..., since the original petition documentation clearly identified Lubbers '406 and Choe '320 as both disclosing, teaching or suggesting the use of "skip lists" and "pointers." The DECISION is therefore improper on this basis as well, as the Lubbers '406 and Choe '320 references are highly material and represent the closest art that the Applicant could find after extensively searching each of the above databases.". As applicant is well aware, "pointers" and "skip lists" have been well known in the art for some time now. Other than teaching pointers and "skip lists" the above 2 references have not been mapped to show any of the claimed features of any of the claims, as seen from the AESD submitted with the original petition. Furthermore, limitations, such as the limitation in claim 1, are compared as a whole to the references. It is not clear if the references teach a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for all the claims. The claimed features have not been included in a search to arrive at relevant prior art.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4, applicant has provided an explanation of utility on page 3 of the renewed petition, and this concise statement of the utility in the renewed petition is seen to be adequate.

Applicant further argues in the renewed petition that the dismissal of the original petition was improper because "the DECISION arbitrarily substitutes its own judgment of what the inventive subject matter is directed to, and then finds fault that the Applicant did not use search terms not based on this judgment that do not actually appear in the claims. The DECISION places requirements upon the Applicant that go beyond those mandated by Office rules, and therefore is improper". The reviewer has recommended search areas and search logic consistent with where one of ordinary skill in the art would look to find structures relating to the problem to be solved of aggregating storage elements, to form a virtual storage space from a number of devices and controllers, and based upon the actual structure recited in the claims or that could be claimed, as required by the AE policy. The purpose of the recommended search is for petitioner to conduct a complete and thorough search and to have the best available prior art at his command so that the claims may be drafted to avoid that prior art. Stated differently, petitioner may not have it both

ways: petitioner may not limit the search to areas without, for example, "using skip list to map each of a plurality of non-overlapping ranges of virtual block addresses (VBAs) of the virtual storage space as individual nodes", while simultaneously arguing patentability over prior art because the prior art fails to teach such elements. If the element has not been specifically searched for, how can an argument for patentability be advanced?

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

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In re Application of	:	
Karve et al.	:	
Application No. 11/771690	:	ON PETITION
Filing or 371(c) Date: 06/29/2007	:	
Attorney Docket Number: MT10687TP	:	

This Decision is in response to a "Petition for Filing Date," filed September 27, 2007, requesting that the application be accorded a filing date of June 29, 2007, including drawings. The petition is properly treated as a petition Under 37 CFR 1.53(e) to establish prior receipt of the drawing(s) at issue. See MPEP 601.01(f).

The petition is granted to the extent indicated herein.

The application was filed on June 29, 2007. Applicant files the present petition to add seven (7) sheets of drawings. In support of the petition, Applicant asserts that the acknowledgment receipt shows that the Office received 10 pages of drawings with the application papers filed on June 29, 2007.

A review of the application file

A review of the application file reveals that this Office mailed to Applicant an Acknowledgment Receipt[1] evidencing the filing of 10 pages of drawings by Applicant on June 29, 2007. Applicant does not attempt to explain in the petition why Applicant is submitting seven (7) pages of drawings, Figures 1-14, with the petition while the acknowledgment receipt shows that 10 pages of drawings were received on filing. Moreover, a review of the specification reveals that Applicant refers to 14 Figures therein, and the 7 pages of drawings filed with the petition contain drawing Figures 1-14. Finally, the oath/declaration filed with the application papers on June 29, 2007 consists of 10 pages, and Office records show that the Office received the oath/declaration twice.

[1] An acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).

Applicable Law, Rules and MPEP

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Prima facie evidence, if not rebutted or contradicted, will remain sufficient.

Analysis

In this instance, Office records contradict Applicant's assertion that the drawings are being "re-submitted." Office records reveal that while Applicant filed a document on June 29, 2007 entitled titled a document MT10687TP-USA20070629-Drawings.pdf <./ViewPDFServlet?dName=/efiling3/submit/2007-06-29/11771690/1928054/&fName=MT10687TP-USA20070629-Drawings.pdf>, the actual content of the document was a 10-page specification. Also, the application file, on June 29, 2007, contained two (2) 10-page oath/declarations and no drawings. Finally, Applicant petitions to include 14 Figures on seven (7) pages of drawings consistent with the specification filed on June 29, 2007. As such, there exists sufficient evidence to rebut and/or contradict Applicant's assertion that the drawings are being re-submitted.

Filing Date

A review of the file reveals that the specification contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

To the extent that the present petition requests a filing date of June 29, 2007, the petition is **granted**.

Applicant may attempt to add the omitted figures by way of amendment, and without a petition. Entry of an amendment will be determined by the Examiner.

In view of the fact that the petition was not necessitated by an error on the part of this Office, no refund of the petition fee is due Applicant.

The application will be returned to the Office of Patent Application Processing for:

1. correction of the filing date to June 29, 2007;

2. mailing of a Notice of Omitted Item(s),

3. issuance of a Filing Receipt.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of :
Uta Prigge et al. :
Application No. 11/771,701 : DECISION DISMISSING PETITION
Filed: June 29, 2007 :
Attorney Docket No: **20017-078001 / 2007P00092** :

This is a decision on the filed December 19, 2007, which is treated under 37 CFR 1.182 in response to the Notice of Omitted Items mailed November 26, 2007.

The petition is **DISMISSED**.

The application was filed June 29, 2007. However, on November 26, 2007, the Office of Initial Patent Examination mailed a Notice of Omitted Items stating that the application had been accorded a filing date of February 8, 2007 but advised that Figure 4(c) described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner argues that no figures were omitted on June 29, 2007 and instead that the mention of Figure 4(c) of the specification was a typographical error. Petitioner submits a preliminary amendment to remove the reference to Figure 4(c).

After a review of the materials filed upon application and those filed with the petition it appears that the specification contains an error in the description of drawings as it relates to Figure 4(c) and in view thereof, it seems obvious from the petition that no drawing was actually missing on June 29, 2007. Rather, the specification incorrectly referred to Figure 4(c). As a result of the applicants' filing error, however, the "Notice" mailed on November 26, 2007, was correct in stating that Figure 4(c) described in the specification appeared to have been omitted.

Therefore, the "Notice" was properly mailed and will not be withdrawn.
The present petition was not necessitated by any error on the part of the Office and thus a $400.00 petition fee is required. Thus, petitioner's deposit account no.06-1050 has been charged in the amount of $400.00.

As such, this application is being forwarded to the Office of Patent Application Processing for further processing, using the application papers received in the Office on June 29, 2007 and the preliminary amendment submitting upon petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 25 2008

OFFICE OF PETITIONS

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

In re Application of
Uta Prigge et al.
Application No. 11/771,701
Filed: June 29, 2007
Attorney Docket No: **20017-078001 / 2007P00092**

: DECISION DISMISSING PETITION

CORRECTED DECISION[1]

This is a decision on the response filed December 19, 2007, treated under 37 CFR 1.182, in response to the Notice of Omitted Items mailed November 26, 2007.

The petition is **DISMISSED**.

The application was filed June 29, 2007. However, on November 26, 2007, the Office of Initial Patent Examination mailed a Notice of Omitted Items stating that the application had been accorded a filing date of February 8, 2007 but advised that Figure 4(c) described in the specification appeared to have been omitted. A response was filed on December 19, 2007 in the manner of a preliminary amendment to remove the reference to Figure 4(c) and an argument that no figures were omitted on June 29, 2007.

In this case, petitioner argues that no figures were omitted on June 29, 2007 and instead that the mention of Figure 4(c) of the specification was a typographical error. Petitioner submits a preliminary amendment to remove the reference to Figure 4(c). In view of the amendment filed December 19, 2007 in response to the Notice, it appears that the applicant is constructively electing to have the application accepted as filed on June 29, 2007 without Figure 4(c).

A review of the materials filed upon application and those filed with the response on December 19, 2007, it appears that the specification contains an error in the description of drawings as it relates to Figure 4(c) and in view thereof, it seems obvious from the petition that no drawing was actually missing on June 29, 2007. Rather, the specification incorrectly referred to Figure 4(c). As a result of the

[1]The decision mailed January 14, 2008 has been vacated and replaced with this decision.

applicants' filing error, however, the "Notice" mailed on November 26, 2007, was correct in stating that Figure 4(c) described in the specification appeared to have been omitted.

Petitioners are reminded that the mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

In this case, it appears that the applicant is constructively electing option 3, to have the application accepted as filed on June 29, 2007 without Figure 4(c).

However, the notice that was sent to the applicant required a substitute specification for the option that applicant chose. Applicant effectively chose option III.A. of the notice. Note that III.A.2. requires "a substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and..., and a statement that the substitute specification includes no new matter..."

In view of the above, petitioner should submit the substitute specification within TWO (2) MONTHS of the mailing date of this decision. The period set for reply is non-extendable.

This matter will be referred to the Office of Patent Application Processing to await petitioner's submission of the substitute specification wherein the Office of Patent Application Processing will continue processing the application with the originally accorded filing date of June 29, 2007. If no reply is received within the two (2) month period, the application will become abandoned for failure to file a proper reply to the Notice of Omitted Items mailed November 26, 2007.

Finally, since the filing of a petition is unnecessary, for the reasons stated above, the petition fee is likewise unnecessary and will be credited back to petitioner's deposit account no. 06-1050.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/771,703	06/29/2007	Seung-kyu PARK	AB-2375US	8371

7590 04/09/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
ERDEM, FAZLI	

ART UNIT	PAPER NUMBER
2826	

MAIL DATE	DELIVERY MODE
04/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nicole Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 NFARMER
07702/2007 INTEFSW 00002486 502257 11771703
02 FC:1111 500.00 CR

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7/15-09

Patent No. : 7,506,539 B2
Ser. No. : 11/771,714
Inventor(s) : Akihiro Miyoshi, et. al.
Issued : March 24, 2009

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Kenneth Ma
Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-26-2010

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.11771714 Patent No.: 7506539

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Eva James
Certificates of Correction Branch
703-756-1583 _____

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: _____

_____

_____

_____

_____

Li Smith — **SPE**

2855 — **Art Unit**

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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO CA 94105

MAILED

MAR 19 2010

OFFICE OF PETITIONS

In re Application of :
Jonathan Hubert et al :
Application No. 11/771,730 : DECISION GRANTING PETITION
Filed: June 29, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAND-01270US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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HARMAN-BRINKS HOFER CHICAGO
Brinks Hoffer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
James D. Pennock, et al.	:	
Application No. 11/771,743	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. 11336-1462 (P06089USU1)	:	FROM RECORD
	:	

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** because it is moot.

A review of the file record indicates that the power of attorney to Brinks, Hofer Gilson & Lione has been revoked by the assignee of the patent application on July 6, 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: **THE ECLIPSE GROUP LLP**
10605 Balboa Blvd., Suite 300
Granada Hills, CA 91344

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
COLLIN, et al. :
Application No. 11/771,755 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **5755-000003/US/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 September 27, 2007.

The request is **APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEAN COLLIN**
13169 FOX HUNT LANE, APT 437
HERNDON, VA 20171

cc: **GREGORY P. BRUMMETT**
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
1616 ANDERSON ROAD
MCLEAN, VA 22102

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: May 19, 2009
Patent No. :7,505,647 B2
Ser. No. :11/771760
Inventor(s) :Andreas Goebel, et al.
Title :METHODS AND APPARATUS FOR DEMULTIPLEXING OPTICAL SIGNALS IN A PASSISVE OPTICAL NETWORK

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Townsend & Townsend and Crew LLP
Two Embarcadero Center, 8th Fl.
San Francisco, CA 94111-3834

MD/mt

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARMAN-BRINKS HOFER CHICAGO
Brinks Hoffer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
James D. Pennock, et al.	:	
Application No. 11/771,764	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. 11336-1300 (P06089US)	:	FROM RECORD
	:	

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** because it is moot.

A review of the file record indicates that the power of attorney to Brinks, Hofer Gilson & Lione has been revoked by the assignee of the patent application on July 6, 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: **THE ECLIPSE GROUP LLP**
10605 Balboa Blvd., Suite 300
Granada Hills, CA 91344

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Commissioner for Patents
United States Patent and Trademark Office
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Karmer-Brown et al. :
Application No. 11/771,819 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. ACS-77542 :
(G2257USC1)

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 26, 2007, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Pamela A. Kramer to Pamela A. Kramer-Brown.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to Technology Center 3700.

Liana Walsh
Petitions Examiner
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/771,819	06/29/2007	3738	1580	ACS-77542 (G2257USC1)	29	2

CONFIRMATION NO. 8553

CORRECTED FILING RECEIPT

OC000000025538097

24201
FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Date Mailed: 08/24/2007

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

Applicant(s)

PAMELA A. KRAMER-BROWN, SAN JOSE, CA;
JOHN WILLIAM MORRIS JR., OAKLAND, CA;

Assignment For Published Patent Application

ADVANCED CARDIOVASCULAR SYSTEMS, INC., SANTA CLARA, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/032,659 10/25/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/30/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/771,819

Projected Publication Date: Incomplete Reply

Non-Publication Request: No

Early Publication Request: No

Title

MANUFACTURE OF FINE-GRAINED MATERIAL FOR USE IN MEDICAL DEVICES

Preliminary Class

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Darby & Darby
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Chang-Min Part :
Application No. 11/771,833 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. 21058/0206452-USO : FROM RECORD
:

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 10, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved attorneys associated with customer number 75172 were never appointed to have power of attorney 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 the undersigned at 571-272- 6735.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Paper No.

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JUN 0 9 2008

In re Application of	:	
Theodore Clineff, Antony Koblish	:	
Charanpreet Bagga, Erik Erbe	:	DECISION ACCORDING STATUS
Gina Nagvajara and Marissa Darmoc	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/771,857	:	
Filed: June 29, 2007	:	
Attorney Docket No. OVIT-0480	:	

This is in response to the STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF OMITTED INVENTOR (37 CFR § 1.47(b)) filed January 3, 2008.

The petition is **GRANTED**.

The above-identified application was filed on June 29, 2007, with an application data sheet and with an unexecuted declaration. By Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2007, applicants were required to submit an executed oath or declaration and the surcharge for its late filing. The Notice set a two (2) month time limit for response, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee), and the required late surcharge. This response was made timely by a petition and fee for extension of time for response within the third month. Accompanying the petition was a declaration executed by joint inventors Clineff, Koblish, Bagga, Nagvajara and Darmoc on behalf of themselves and on behalf of non-signing joint inventor Erbe. Applicants assert that status

under 1.47(a) is proper because joint inventor Erbe has refused to join in the application.

By declaration of patent practitioner Stephanie Barbosa (and supporting documentary evidence) applicants have shown that a copy of the application papers (specification, including claims, drawings, and oath or declaration)(e.g., as-filed copy of OVIT-0480) was presented to the attorney for non-signing inventor Erbe. However, there was no response to the request to sign the declaration. Applicants have shown that inventor Erbe, by his conduct in not responding, has refused to join in the application.

The declaration filed January 3, 2008, has been reviewed and found in compliance with § 1.63. The petition includes payment of the petition fee and the last known address of inventor Erbe.

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.

It is noted that a REQUEST FOR CORRECTED FILING RECEIPT was received at the same time as the petition. In response, a corrected filing receipt was mailed on April 30, 2008. Submission of a supplemental executed ADS with the correct spelling is not required, but is encouraged. As stated in MPEP 605.04(b),

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Receipt of the REQUEST TO ACCEPT BLACK AND WHITE PHOTOGRAPHS AS DRAWINGS is acknowledged. Any inquiry with respect to that request should be directed to the Technology Center.

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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ERIK ERBE
1247 BERWYN-PAOLI ROAD
BERWYN, PA 19312

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JUN 09 2008

In re Application of	:	
Theodore Clineff, Antony Koblish	:	
Charanpreet Bagga, Erik Erbe	:	
Gina Nagvajara and Marissa Darmoc	:	LETTER
Application No. 11/771,857	:	
Filed: June 29, 2007	:	
Attorney Docket No. OVIT-0480	:	

Dear Mr. Erbe:

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

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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Levine, Bagade, Han, LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of	:	
John TO et al.	:	
Application No. 11/771,865	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. ATHRNZ00600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 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 Sanjay S. Bagade and all attorneys/agents associated with customer number 40518 has been revoked by the assignee of the patent application on July 23, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ryan, Kromholz & Manion, S.C.
Post Office Box 26618
Milwaukee, WI 53226

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/771,865	06/29/2007	John TO	ATHRNZ00600

CONFIRMATION NO. 8621

POWER OF ATTORNEY NOTICE

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 09/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2008.

- 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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AUG 1 - 2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,881
Filed: June 29, 2007
Docket: STL13558
Title: DATA STRUCTURE FOR HIGHLY EFFICIENT DATA QUERIES

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 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, II.6.5, and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. It seems that class 370/395.31 should have been searched since one of the references (Choe reference) deemed most closely related to the claimed invention is classified in that class/subclass.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" sections in the Examination Support Document, Applicant provides a brief discussion of Lubbers and Choe references, but does not match any claim limitations in the instant application to any portions in either of the references. Lubbers and Choe do not seem to disclose any other claim limitation per this section in the Examination Support Document. "Explanation of Patentability" section in the Examination Support Document does not provide any more insight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were cited to be pertinent to the claimed invention, and reproduces, for the most part, the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent 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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/771,881	06/29/2007	CLARK EDWARD LUBBERS	STL13558	8644

7590 10/25/2007

McCarthy & Associates, PC
Suite 609
500 West Main Street
Oklahoma City, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	**PAPER NUMBER**
2187	

MAIL DATE	DELIVERY MODE
10/25/2007	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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McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al. Serial No.: 11/771,881 Filed: June 29, 2007 Docket: STL13558 Title: DATA STRUCTURE FOR HIGHLY EFFICIENT DATA QUERIES	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 September 4, 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 June 29, 2007. That petition was dismissed in a decision mailed on August 1, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, and II.6.4.

The Renewed Petition, filed on September 4, 2007, is still found to be deficient with respect to conditions II.5.1 and II.5.2, II.6.2, and II 6.3, as explained below.

Regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), Applicants were notified in the dismissal referred above, that **"the date of search must be provided for each database searched"**. However applicant **has not complied with this requirement** in the Renewed Petition to make special.

Further, regarding item II.6.3, applicants were notified that, in the AESD submitted with the original petition, the statement of patentability did not provide a detailed explanation of how each

of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needed 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 link (http://www.uspto.gov/web/patents/accelerated/) was provided for an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document. However, **Applicant has not provided a explanation of patentability with the renewed petition to point out to any claim limitation as being patentably distinguishing, nor has applicant addressed the question of whether the dependent claims were separately patentable.** Hence the deficiencies in this regard, as laid out in the petition dismissal mailed on August 1, 2007, have not been rectified by applicant in the Renewed Petition.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), applicant states that "review on a reference-by-reference basis took place within the various references in the respective classes/subclasses were carried out in an effort to locate relevant art". However, it is not clear from this statement whether all documents were searched in each class/subclass, or whether a text search was performed on the specified class/subclass, and the documents reviewed thereafter.

Further, with respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) it was suggested that petitioner review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has not provided any new search logic, stating instead in the renewed petition that: "The search logic as originally presented is sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". It is unclear from this statement whether the patentable features of the claimed invention were searched or not, since such features have not been clearly identified in the "Explanation of Patentability" section.

Applicants search strategy as filed in the original petition is as follows:
"skip list"
data and (maps or array) and (virtual or points or entr$)

Applicant has chosen not to provide a Pre-exam search document with the renewed petition. The search logic does not seem to include many the features included in the claim language, for example "storage element comprising a data structure" that configures "associated memory space as a virtual data space", "Reliable storage unit descriptor", "snapshot copy", nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features.

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **479715 hits** for the search string data and (maps or array) and (virtual or points or entr$)" listed in applicants search logic above. The other search string listed ""skip list"" netted 153 **hits**. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to be " sufficient to satisfy the requirements of 71 FR 36323, as the search logic and databases are directed to the actually recited claim language". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, it was suggested that Applicant provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicant has chosen not to provide a new AESD with the renewed petition. In the Support Document, that was submitted with the original petition, there was not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. Applicant states (on page 2 of renewed petition) that "The DECISION further erroneously states that insufficient "mapping" was presented between the claim language and the identified Lubbers '406 and Choe '320 references". The explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in each of the references.

Applicant states (on page 3 of renewed petition) that "The Applicant respectfully takes issue with the characterization made by the DECISION that the two listed Lubbers '406 and Choe '320 references are not closely related to the inventive subject matter..., since the original petition documentation clearly identified Lubbers '406 and Choe '320 as both

disclosing, teaching or suggesting the use of "skip lists" and "pointers." The DECISION is therefore improper on this basis as well, as the Lubbers '406 and Choe '320 references are highly material and represent the closest art that the Applicant could find after extensively searching each of the above databases.". As applicant is well aware, "pointers" and "skip lists" have been well known in the art for some time now. Other than teaching pointers and "skip lists" the above 2 references have not been mapped to show any of the claimed features of any of the claims, as seen from the AESD submitted with the original petition. Furthermore, limitations, such as the limitation in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for all the claims. The claimed features have not been included in a search to arrive at relevant prior art.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4, applicant has provided an explanation of utility on page 3 of the renewed petition, and this concise statement of the utility in the renewed petition is seen to be adequate.

Applicant further argues in the renewed petition that the dismissal of the original petition was improper because "the DECISION arbitrarily substitutes its own judgment of what the inventive subject matter is directed to, and then finds fault that the Applicant did not use search terms not based on this judgment that do not actually appear in the claims. The DECISION places requirements upon the Applicant that go beyond those mandated by Office rules, and therefore is improper". The reviewer has recommended search areas and search logic consistent with where one of ordinary skill in the art would look to find structures relating to the problem to be solved of aggregating storage elements, to form a virtual storage space from a number of devices and controllers, and based upon the actual structure recited in the claims or that could be claimed, as required by the AE policy. The purpose of the recommended search is for petitioner to conduct a complete and thorough search and to have the best available prior art at his command so that the claims may be drafted to avoid that prior art. Stated differently, petitioner may not have it both ways: petitioner may not limit the search to areas without, for example, forming a data structure to configure a memory space in a particular way while simultaneously arguing patentability over prior art because the prior art fails to teach such elements. If the element has not been specifically searched for, how can an argument for patentability be advanced?

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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www.uspto.gov

FULWIDER PATTON, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Pamela Kramer-Brown, et. al.
Application No. 11/771,889
Filed: June 29, 2007
Attorney Docket No. ACS-77543
(G2257USD1)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, July 26, 2007, to change the name of inventor "Pamela A. Kramer" to -- Pamela A. Kramer-Brown --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3738 for further processing and examination in due course.

Andrea Smith
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
11/771,889	06/29/2007	3738	1730	ACS-77543 (G2257USD1)	11	6

CONFIRMATION NO. 8656

CORRECTED FILING RECEIPT

24201
FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

OC00000034867963

Date Mailed: 03/05/2009

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

Applicant(s)

PAMELA A. KRAMER-BROWN, SAN JOSE, CA;
JOHN WILLIAM MORRIS JR., OAKLAND, CA;

Assignment For Published Patent Application

ADVANCED CARDIOVASCULAR SYSTEMS, INC., SANTA CLARA, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/032,659 10/25/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/771,889**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MANUFACTURE OF FINE-GRAINED MATERIAL FOR USE IN MEDICAL DEVICES

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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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SUITE 5400
SEATTLE WA 98104

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of	:	
NORRING et al.	:	DECISION GRANTING STATUS
Application No. 11/771,941	:	UNDER 37 CFR 1.47(a)
Filed: 06/29/2007	:	
Attorney Docket No. 120066.545C1	:	
Title: METHOD FOR AUTOMATING CONSTRUCTION OF THE FLOW OF DATA DRIVEN APPLICATIONS IN AN ENTITY MODEL	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 18, 2007. Petitioners obtained an extension of time for response within the first month. Thus, the petition is timely.

The petition is GRANTED.

Petitioners have shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kalpana Narayanaswamy
2702 186th Ave. NE
Redmond, WA 98052

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
NORRING et al.	:	
Application No. 11/771,941	:	LETTER
Filed: 06/29/2007	:	
Attorney Docket No. 120066.545C1	:	
Title: Method for Automating Construction of the Flow of Data Driven Applications in an Entity Model	:	

Dear Mr. Narayanaswamy:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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Michael Callahan
13429 NE 136th Place
Kirkland, WA 98034

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
NORRING et al.	:	
Application No. 11/771,941	:	LETTER
Filed: 06/29/2007	:	
Attorney Docket No. 120066.545C1	:	
Title: Method for Automating Construction of the Flow of Data Driven Applications in an Entity Model	:	

Dear Mr. Callahan:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DEC 2 0 2007

OFFICE OF PETITIONS

Michael Norring
2802 257th Place SE
Sammamish, WA 98075

In re Application of	:	
NORRING et al.	:	
Application No. 11/771,941	:	LETTER
Filed: 06/29/2007	:	
Attorney Docket No. 120066.545C1	:	
Title: Method for Automating Construction of the Flow of Data Driven Applications in an Entity Model	:	

Dear Mr. Norring:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Lawrence W. Orebaugh Jr.
30025 127th Place SE
Auburn, WA 98092

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of :
NORRING et al. :
Application No. 11/771,941 : LETTER
Filed: 06/29/2007 :
Attorney Docket No. 120066.545C1 :
Title: Method for Automating Construction of the :
Flow of Data Driven Applications in an Entity :
Model :

Dear Mr. Orebaugh:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
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SEATTLE WA 98104

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COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

COPY MAILED

JAN 04 2010

In re Application of :
Peter J. McKinney :
Application No. 11/771,978 : DECISION ON PETITION
Filed: June 29, 2007 : TO WITHDRAW
Attorney Docket No. **STRI-001/01US 301024-2006** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 12, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

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 assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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07/28/2007

MAILED

AUG 1 - 2007

Technology Center 2100

McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,980
Filed: June 29, 2007
Docket: STL13640
Title: PREFERRED ZONE SCHEDULING

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 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, and II.6.5 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. Petitioner only indicates that a search was performed in these databases. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, the reference (McKnight) deemed most closely related to the invention is classified in 711/141class/subclass. Applicant's classification search does not seem to include this class/subclass.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" and the "Explanation of Patentability" sections in the Examination Support Document indicate that the only reference that was cited to be most closely related to the claimed invention discloses none of the features of the claimed invention. Applicant has not correlated what McKinght teaches (for instance claim 15) to the claim language of the instant application. In most instances whole claims (for instance claim 1 and dependent claims) have been recited as being not taught by McKnight. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the only reference that was cited to be pertinent to the claimed invention, and reproduces the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link

http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent claims.***

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.6 above, the accelerated examination support document fails to provide an identification of any cited references that may be disqualified under 35 USC 103(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, (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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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.
11/771,980	06/29/2007	Clark Edward Lubbers	STL13640	8832

71222 7590 10/25/2007

MCCARTHY & ASSOCIATES
500 WEST MAIN , STREET , SUITE 609
OKLAHOMA CITY, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	

ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
10/25/2007	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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McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Lubbers et al.
Serial No.: 11/771,980
Filed: June 29, 2007
Docket: STL13640
Title: PREFERRED ZONE SCHEDULING

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 September 4, 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 June 29, 2007. That petition was dismissed in a decision mailed on August 1, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6.

The Renewed Petition, while complying with the requirements of conditions II 6.3, II.6.4 and II.6.6, is still found to be deficient with respect to conditions II.5.1, II.5.2, and II.6.2.

With respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) petitioner was notified that **petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search.** Applicant states in the Explanation of Patentability section that "McKnight '211 does not disclose **a data storage system that qualitatively characterizes a network load, and responsively limits the contents of the command queue to a zone within a plurality of predefined zones of a storage media as recited by each of the independent claims.** Furthermore, as set forth in the "Identification of the Features of the Claims

Disclosed by the Disclosed Reference," each of the **dependent claims** recites additional features not disclosed by McKnight '211 and are therefore **all separately patentable.**". Applicant states (page 2 of Remarks) that "The claimed subject matter is drawn to selectively limiting the contents of the command queue, otherwise commonly referred to as the "Seek queue," based on **a qualitative characterization of the host load**".

However the search logic presented in the original petition and unmodified in the renewed petition is as follows:

(1) "array controller" and ("command queue" or "seek queue")

(2) "data storage" and ("seek profile" or "command profile" or "seek queue" or "command queue" or "command order$" or "queue order$")

(3) "array controller" and (seek or order$)

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

There is no indication in the original petition or the renewed petition that the feature of **"a data storage system that qualitatively characterizes a network load, and responsively limits the contents of the command queue to a zone within a plurality of predefined zones of a storage media"**, as recited by each of the independent claims, (refer "Explanation of Patentability" section of the Amended Accelerated Support Document), or "selectively limiting the contents of the command queue, otherwise commonly referred to as the Seek queue," based on **a qualitative characterization of the host load**" (claimed subject matter) were searched by applicants. There is also no indication that "policy engine that continuously collects information about network load", "limiting content of a command queue to transfer requests based on a physical zone" (as claimed in independent claim 1 for example), "using the load characterization to selectively switch a basis between a substantially uniformly distributed basis and a physical zone distributed basis for the transfer requests of writeback commands" (as claimed in independent claim 15 for example), write through commands (claim 4 for example), ratio of "latency sensitive access command" to "rate sensitive access commands" (as claimed in claims 3 and 17, for example), "annular portion" (as claimed in claim 6, for example), "correlating command profile to LUN priorities" (as claimed in claim 7, for example), were searched by applicant, nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **125 hits** for the search

string " "array controller" and ("command queue" or "seek queue")", **2445 hits** for the search string " "data storage" and ("seek profile" or "command profile" or "seek queue" or "command queue" or "command order$" or "queue order$") ", and **3068 hits** for the search string " "array controller" and (seek or order$)" listed in applicants search logic above. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to "encompass the claimed subject matter". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: Foreign Patents/Apps: WIPO), applicants state that all references were considered in each class/subclass at least by title. However, it is not clear from this statement to what extent the full disclosure of each of the documents were considered in each of the class/subclass searched, so as to effect a search encompassing ***all*** of the features of the claims, given their broadest interpretation, as required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, Applicants were notified that Applicants should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicants have responded by stating (on page 4 of Remarks) that " Applicant has in fact mapped the disclosure of McKnight '211 to the extent possible with regard to the recited language of all the claims. Again, Applicant describes relevant disclosure of McKnight '211with respect to the subject matter of claims 1,3,4,7,9,15,17,18,and 20".

The explanation of the reference did indicate what is generally disclosed in the reference, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in the reference. For example, with respect to claim 1, the claim recites "A data storage system comprising a policy engine that continuously collects qualitative information about a network load to the data storage system in order to dynamically characterize the load, and in response to the load characterization selectively limits content of a command queue with respect to transfer requests for writeback data to only those transfer requests that are selected on a physical zone basis of a plurality of predefined physical zones of a storage media.".

Applicants state ("Identification of the Features of the Claims Disclosed by the Disclosed References" section) "McKnight '211 discloses a revision to a common RAID storage system (such as 20). In some embodiments the system load is determined in terms of the occupancy of the cache 24 (col. 3 lines 58-60). If the load is light then the controller 22 employs write back caching (block 102 in FIG. 2), but in heavy load conditions the controller employs write through caching (block 104 in FIG. 2). Alternatively, FIG. 3 shows that if the controller detects a sequential load stream then the controller defaults to write back caching (block 112 in FIG. 3).". While this describes what the McKnight reference is drawn to, it does not provide a claim-by-claim mapping

of the pertinent subject matter disclosed in the reference, **specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference**. Applicant further states that "Independent claim I is not anticipated by McKnight '211 at least because McKnight '211 does not disclose a policy engine that continuously collects qualitative information about a network load to the data storage system in order to dynamically characterize the load, and in response to the load characterization selectively limits content of a command queue with respect to transfer requests for writeback data to only those transfer requests that are selected on a physical zone basis of a plurality of predefined physical zones of a storage media.". Further, as explained in the sections above, this feature that is said to make the application patentably distinct over prior art, has not been included in applicant's search logic. Furthermore, limitations, such as the above limitation in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for all the other claims.

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC2100

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
KIM, Willie W. :
Application No. 11/771,984 : DECISION ON PETITION
Filed: June 29, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **WWK.001C1** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the statement and certificate of Naturalization of inventor Willie W. Kim, 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 571-272-3600.

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 3673 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Suite 2300
LOS ANGELES CA 90017

MAIL

MAY 02 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
LEE, YOUNG DAE, et al.
Application No. 11/771,985
Filed: June 29, 2007
Attorney Docket No. 2101-3-21C1

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed April 23, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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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	:	
Todd Alan Carper et al.	:	
Application No. 11/771,993	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. 71073.00002.UTL	:	FROM RECORD
	:	

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 2, 2008.

The request is **APPROVED**.

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

The request was signed by Jane I. Song on behalf of all attorneys/agents associated with customer number 36183. All attorneys/agents associated with customer number 36183 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: Electronic Plastics, LLC
Attn: Michael Gardiner
9771 Clairemont Messa Boulevard
San Diego, CA 92124

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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
11/771,993	06/29/2007	Todd Alan Carper	71073.00002.UTL

CONFIRMATION NO. 8852

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

Date Mailed: 02/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/02/2008.

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

/kainabinet/

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

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OFFICE OF PETITIONS

W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE TN 37201

In re Application of :
Danny McCall :
Application No. 11/772,026 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. 2902207.000002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, July 20, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 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 RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

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 $555 extension of time fee submitted with the petition on January 25, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

This application is being referred to the Technology Center AU 3624 for appropriate action in the normal course of business for processing of the RCE received January 25, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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SUITE 200
840 APOLLO STREET
EL SEGUNDO CA 90245

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of :
Robert B. Dybdal et al. :
Application No. 11/772,073 : DECISION ON PETITION
Filed: June 29, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 700700-051 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 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/she 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 2821 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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DUGAN & DUGAN, PC
245 Saw Mill River Road
Suite 309
Hawthorne, NY 10532

Mail Date: 04/21/2010

Applicant	: Tyler Thorp	: DECISION ON REQUEST FOR
Patent Number	: 7656734	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/772,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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FROM DIRECTOR'S OFFICE

AUG 16 2007

TECHNOLOGY CENTER 3600

Intellectual Property Law Group LLP
12 South First Street
Suite 1205
San Jose, CA 95113

In re application of: : **DECISION ON PETITION**
Xirong Zhao et al. : **TO MAKE SPECIAL FOR**
Application No. 11/772,117 : **NEW APPLICATION**
Filed: June 30, 2007 : **UNDER 37 CFR 1.102**
For: SYSTEMS AND METHODS FOR DISPLAYING MULTIPLE CHARTS OF RELATED STOCK CANDIDATES

This is a decision on the petition filed on June 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.

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.5.2, II.6.2, II.6.3, and II.6.6, 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 classification search is acceptable, with respect to the text search of the EAST database, the petition lacks sufficiently specific search logic. While the search logic provided for the EAST database contains terms directed to broad concept of the claims, this search logic does not encompass all of the features of both the independent and dependent claims. For example, the "Detailed Explanation of Patentability" section of the Support Document states that the references do not disclose "ranking a plurality of chart displays, grouping and linking the chart displays for viewing simultaneously with a quote sheet display, such that the stock chart displayed in each of said ranked chart displays is retrieved from and corresponds to a stock in the sequence of stocks listed in the quote sheet display [...]". However, looking at the text searches performed in EAST, these concepts are not adequately searched.

First, Applicant has overly limited the searches by directing the queries only to the titles, abstracts, and claims. Further, eighteen queries are overly limiting in that they are confined to only specific classes or subclasses. Further, truncation was not adequately utilized in the queries. Terms like "display" and "market" will not return variations like "displaying" or "markets". Applicant should therefore broaden the search to the entirety of the documents by removing the ".ti, ab, clm." operators from the queries, as well as utilize truncation operators. Further, Applicant did not search concepts such as ranking chart displays, linking chart displays, quote sheets, simultaneous viewing of quote sheets, sequences of stocks, which is specifically important because these concepts were sited in the "Detailed Explanation of Patentability" section of the Support Document. Further, the dependent claims add additional features that were not searched, such as charts being grouped by color, simultaneously viewed market indicators, selection of quote sheet content, scanning the stock market for results that meet a criteria, scrolling, and ranking displays in numerical order. 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 claim:
((display$4 or chart$4 or graph$4) same stock$4) and (quote$4 near3 sheet$4) and (rank$4 near5 (chart$4 or sheet$4 or display$4)) and (link$4 near4 (chart$4 or sheet$4 or display$4))

Dependent Claim:
(((scan$4 or monitor$4 or track$4) near6 (market$2 or stock$4)) same (criteri$4 or indicator$4)) and stock$4 and (rank$4 same (chart$4 or sheet$4 or display$4) same (hierarch$6 or numeric$4 or order$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 and a starting point for applicant's assistance.

Also with respect to II.5.2, for the same reasons cited above, the search logic used with respect to the Non-Patent Literature (NPL) searches in Dialog, espacenet.com, and FreeArticles.com are not sufficiently specific as to encompass all the features of both the independent and dependent claims. Applicant should supplement these searches with terms such as those discussed above with respect to the search logic used in EAST.

Further with respect to II.5.2, it is noted that Dialog is utilized to search Non-Patent Literature (NPL), with INSPEC being the only files searched. Applicant should search other Dialog files that are more specifically related to financial matters, 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 Dialog searches here should at least include the databases as DIALOG Finance and Banking Newsletters, JSTOR Journals, Financial Times, ABI/INFORM, and PR Newswire, which are directly related to finance.

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 (both independent and 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. While Applicant has provided explanations of the disclosures of the references, it is not clear what limitations (or portions thereof) of each of the claims are admittedly taught by each reference. This must be made clear by referencing claim limitations (or portions thereof) when providing explanations and citations of each of the references.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The detailed 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. In the Detailed Explanation of Patentability section, under the heading "35 USC 102", Applicant states that "none of these references disclose each and every limitation of any of claim 1-20". This statement is not sufficient because it does not clearly establish what is not taught by each of the references, including referencing each of the claims and explaining how they are patentable over Tobias et al. and Tyulyaev. The explanation should further include an explanation of how each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or a statement that the dependent claims are not separately patentable beyond the limitations contained in the independent claims.

Further with respect to condition II.6.3, under the heading "35 USC 103" of the Detailed Explanation of Patentability section, Applicant states that neither Tobias et al. and Tyulyaev, alone or in combination, teach claims 1-20 because none of the references disclose or suggest "ranking a plurality of chart displays [...] in said quote sheet display". However, this statement is again not sufficient because it does not specify how each of the claims are patentable over

each of the cited references as no claim numbers are specifically referenced. Applicant must clearly reference each of the claims and explain how they are patentable over Tobias et al. and Tyulyaev. The explanation should further include an explanation of how each of the dependent claims are separately patentable beyond the limitations contained in the independent claims or a statement that the dependent claims are not separately patentable beyond the limitations contained in the independent claims.

As to condition II.6.6, there currently is not an adequate identification of any cited references that may be disqualified under 35 USC 103(c). Specifically, Applicant has not included any statement on the matter, whether it be an identification of any cited references that may be disqualified under 35 USC 103(c) or a statement that None of the cited references are disqualified as prior art under 35 USC 103(c). This should be clearly identified.

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

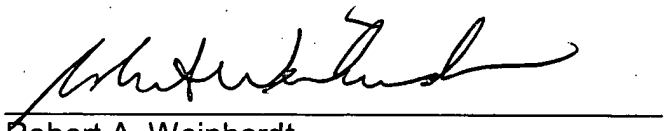
DECISION

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 08/14/2007

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07/30/2007

Technology Center 2100

Mitchell K. McCarthy,
McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Clark Edward Lubbers
Serial No.: 11/772,139
Filed: June 30, 2007
Docket: STL13491
Title: STORAGE SYSTEM WITH SYNCHRONIZED PROCESSING ELEMENTS

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 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.

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, and II.6.5 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6 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] and item II.5 above, the petition does not include a statement made based on a good faith belief, that a preexamination search in compliance with the above requirements, was conducted.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. Petitioner only indicates that a search was performed in these databases. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, the class/subclass searched does not seem to cover the claimed invention. The claims seem to be drawn to storage systems and controllers and ring buffers, and hence it seems that 711/118 (caching), 711/114 (Arrays) and 711/110 (circulating memory) should have been included in the search.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" and the "Explanation of Patentability" sections in the Examination Support Document indicate that the only reference that was cited to be most closely related to the claimed invention discloses none of the features of the claimed invention. For instance, Applicant states with respect to claim 12 "Claim 12 is not anticipated by Horn '297 at least because Horn '297 does not disclose posting a command associated with the access command by the host exchange function controller to a memory controlled by a policy processor, via a list manager in the ASIC and a peripheral device bus to which the policy processor is connected.". However, the search logic does not indicate that these limitations have been searched. The same is true for claim 20 for instance. Again with respect to claim 20, for instance, applicant states "Claim 20 is not anticipated by Horn

[1] MPEP 8th ed. rev 5 August 2006

'297 because it does not disclose any structure capable of transacting network input/output (I/O) commands by collectively synchronizing all transactions targeted to the policy processor from each of the function controllers." However, search logic does not reflect these features having been searched. Further, applicant does not show how/where the rest of the limitations for these claims are met by the Horn reference. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Finally, based upon the claimed subject matter of the instant application, a search in the following class and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: Class 711 subclasses 110, 114, and 118). This additional search area was confirmed with a Primary examiner in the pertinent art area (Class 711). Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the only reference that was cited to be pertinent to the claimed invention, and reproduces the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. See also discussion above regarding inadequacy of search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent claims***.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.6 above, the accelerated examination support document fails to provide an identification of any cited references that may be disqualified under 35 USC 103(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, (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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/772,139	06/30/2007	Clark Edward Lubbers	STL13491	9079

71222 7590 10/23/2007
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EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
10/23/2007	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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McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

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OCT 23 2007

Technology Center 2100

In re Application of: Clark Edward Lubbers
Serial No.: 11/772,139
Filed: June 30, 2007
Docket: STL13491
Title: STORAGE SYSTEM WITH SYNCHRONIZED PROCESSING ELEMENTS

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 September 4, 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 June 30, 2007. That petition was dismissed in a decision mailed on August 1, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6.

The Renewed Petition, while complying with the requirements of conditions II.5, II 6.3, II.6.4 and II.6.6, is still found to be deficient with respect to conditions II.5.1 and II.5.2, and II.6.2.

With respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) petitioner was notified that **petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search.** Applicant states in the Explanation of Patentability section that "the cited references do not disclose **a controller ASIC with a plurality of function controllers coupled to a policy processor via a list manager and an event ring buffer to which all the transactions from the function controllers are collectively posted in real time, as is claimed by the independent claims.** Furthermore, as set forth in the "Identification of the

Features of the Claims Disclosed by the Disclosed Reference," each of the **dependent claims** recites additional features not disclosed by the cited references and are therefore **all separately patentable**.

However the search logic presented in the original petition and unmodified in the renewed petition is as follows:

(1) "array controller" and (dual or redundant) and ("ring buffer" or "circular buffer" or "event buffer" or buffer)

(2) RAID and (dual or redundant) and ("ring buffer" or "circular buffer" or "event buffer" or buffer)

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

There is no indication in the original petition or the renewed petition that the features of "a controller ASIC with a plurality of function controllers coupled to a policy processor via a list manager and an event ring buffer to which all the transactions from the function controllers are collectively posted in real time" as explained in the "Explanation of Patentability" section were searched by applicants. While applicants have searched for ("function$ core" or FCC), applicants have not searched for, for instance, ("function controllers" or "FC"s or "policy processors" or "list manager" or synonyms or variations of these terms that appear in the claim language. There is no indication that "selectively coupling a plurality of dedicated purpose function controllers to a policy processor via a list manager", "an event ring buffer to which transactions are posted collectively in real time" (as claimed in claim 1, for example), "synchronizing circular buffer" (as claimed in claim 2, for example), "event ring buffer with fixed-size data fields" (as claimed in claim 5, for example), were searched by applicant, nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features. The petition dismissal listed some of the above features as examples of features that were not included in applicant's search logic.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **995 hits** for the search string ""array controller" and (dual or redundant) and ("ring buffer" or "circular buffer" or "event buffer" or buffer)", and **4492 hits** for the search string "RAID and (dual or redundant) and ("ring buffer" or "circular buffer" or "event buffer" or buffer) ". The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to "encompass the

claimed subject matter". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: Foreign Patents/Apps: WIPO), applicants state that all references were considered in each class/subclass at least by title. However, it is not clear from this statement to what extent the full disclosure of each of the documents were considered in each of the class/subclass searched, so as to effect a search encompassing ***all*** of the features of the claims, given their broadest interpretation, as required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, Applicants were notified that Applicants should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicants have responded by stating (on page 4 of Remarks) that " Applicant has in fact mapped the disclosure of the cited references to the extent possible with regard to the recited language of all the claims. Again, Applicant describes relevant disclosure of Horn '297 with respect to the subject matter of claims 1, 6, 9-12, and 16-20.".

Applicants have amended the specification of instant application to make it a continuation-in-part of US 2006/0277350 to Lubbers ("Lubbers '350). Applicant further states that Lubbers '350 is cumulative to Horn '297. It is noted that a parent application, from which the instant application claims continuity, can never be used as a prior art against the instant application. Hence Lubbers'350 is not valid prior art.

As for Horn '297, the explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including dependent) are present in the references. For example, with respect to claim 1, the claim recites " 1. A storage system comprising:
a controller application specific integrated circuit (ASIC) having an interconnect selectively coupling a plurality of dedicated purpose function controllers in the ASIC to a policy processor via a list manager in the ASIC communicating on a peripheral device bus to which the policy processor is connected; and
an event ring buffer to which all transaction requests from each of the plurality of function controllers to the policy processor are collectively posted in real time.".

Applicants state ("Identification of the Features of the Claims Disclosed by the Disclosed References" section) with respect to claim 1, " Horn '297 discloses an ASIC (1610 in FIG. 16) having an interconnect (710) selectively coupling a plurality of dedicated purpose function controllers (905, 906, 340) in the ASIC with a plurality of list managers 720, 730, 750. ".

Applicant further states that Independent claim 1 is not anticipated by Horn '297 at least because Horn '297 does not disclose "coupling a plurality of dedicated purpose function controllers (FCs) in the ASIC to a policy processor via a list manager in the ASIC communicating on a peripheral device bus to which the policy processor is connected, and an event ring buffer to which all transaction requests from each of the plurality of function controllers to the policy processor are collectively posted in real time.". However, as explained in the sections above, this feature that is said to make the application patentably distinct over prior art, has not been included in applicant's search logic. Furthermore, limitations, such as the final limitation in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for the other claims.

With respect to claim 20, applicant states "Claim 20 is not anticipated by Horn '297 because it does not disclose any structure capable of transacting network input/output (I/O) commands by collectively synchronizing all transactions targeted to the policy processor from each of the function controllers.". Applicant is silent regarding the rest of claim 20, which recites "A storage system comprising:
a controller ASIC having a plurality of dedicated purpose function controllers selectively coupled to a policy processor via a list manager in the ASIC communicating with a peripheral device bus to which the policy processor is connected; and
means for processing network input/output (I/O) commands by collectively synchronizing all transactions targeted to the policy processor from each of the function controllers.".
It is not clear whether applicant believes "a controller ASIC having a plurality of dedicated purpose function controllers selectively coupled to a policy processor via a list manager in the ASIC communicating with a peripheral device bus to which the policy processor is connected" is disclosed by Horn, since applicant is silent with respect to this limitation with regard to claim 20.

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.

Regarding claiming continuation-in-part to a parent application, item II.6.5 states "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". Applicant has failed to provide such support with respect to Lubbers '350. However, reviewer will accept applicant's discussion of Lubbers '350 with respect to the claims of the instant application, expressly stating claim limitations that are said to be not anticipated by Lubbers '350 (refer "Identification of the Features of the Claims Disclosed by the Disclosed References" section), as providing the support for the claimed features under item 6.5. ***Since applicant has disclosed that none of the claims are fully anticipated by Lubbers '350, it will be noted that none of the claims of the instant application are entitled to the earlier filing date of Lubbers '350.***

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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INTEL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Javier Leija et al :
Application No. 11/772,144 : DECISION ON PETITION
Filed: June 30, 2007 :
Attorney Docket No.P25358 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed July 23, 2007, 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.

Karen Creasy

Karen Creasy
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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OFFICE OF PETITIONS

In re Application of :
Brandon D. Tinianov :
Application No. 11/772,173 : DECISION ON PETITION
Filed: June 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 28262-710.201 : 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) 1 as explained below.

This application has been classified in an area (USPC 428/703) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

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 1794 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Technology Center 2100

Mitchell K. McCarthy,
McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Clark Edward Lubbers
Serial No.: 11/772,175
Filed: June 30, 2007
Docket: STL13493
Title: PROCESSING WRONG SIDE I/O COMMANDS

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 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.

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.1, and II.6.5 above are considered to have been met. However, the petition fails to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. Petitioner only indicates that a search was performed in these databases. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, the class/subclass searched does not seem to cover the claimed invention. The claims seem to be drawn to storage systems and controllers and ring buffers, and hence it seems that 711/118 (caching), 711/114 (Arrays) and 711/110 (circulating memory) should have been included in the search.

Further, with respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary. Applicant has only provided one set of search logic while providing no information regarding when and on which databases the search was performed. The search logic seems to include neither the inventive concept nor the features included in the claim language.

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" and the "Explanation of Patentability" sections in the Examination Support Document indicate that the only reference that was cited to be most closely related to the claimed invention discloses almost none of the features of the claimed invention. For instance, Applicant states with respect to claim 12 "Claim 12 is not anticipated by Horn '297 at least because Horn '297 does not disclose a first policy processor partnered with a first ISP and a second policy processor partnered with a second ISP, or receiving an I/O command by one of the FCs directed to a LUN on a non-unit-master side of the controller, or posting a transaction request command from the FC to the policy processor on the unit-master side of the controller.". However, the search logic does not indicate that these limitations have been searched. Again with respect to claim 20, for instance, applicant states "Claim 20 is not anticipated by Horn '297 because it does not disclose any structure capable of transacting fight side and wrong side I/O commands together in real time on a unit master side of the controller.". However, search logic does not reflect these features having been searched. Further, applicant does not show how/where the rest of the limitations for these claim are taught by the Horn reference. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Finally, based upon the claimed subject matter of the instant application, a search in the following class and subclasses is

also recommended in order to provide full coverage of where the most pertinent references are most likely to be found: Class 711 subclasses 110, 114 and 118). Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the only reference that was cited to be pertinent to the claimed invention, and reproduces almost the complete claim language as being not taught by the reference(s). Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references. An explanation furthermore 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/.

It should be noted that while applicant's detailed explanation of how each of the claims are patentable over the cited references (every reference fails to teach **any** limitation of any independent claim) is technically acceptable, not finding even one reference that teaches even one claimed limitation is another indication of the inadequacy of the search. See also discussion above regarding inadequacy of search. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document include with any renewed petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent claims.***

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.6 above, the accelerated examination support document fails to provide an identification of any cited references that may be disqualified under 35 USC 103(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, (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 Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

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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.
11/772,175	06/30/2007	Clark Edward Lubbers	STL13493	9126

71222 7590 10/23/2007
MCCARTHY & ASSOCIATES
500 WEST MAIN , STREET , SUITE 609
OKLAHOMA CITY, OK 73102

EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	**PAPER NUMBER**
2187	
MAIL DATE	**DELIVERY MODE**
10/23/2007	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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OCT 23 2007

Technology Center 2100

Mitchell K. McCarthy,
McCarthy & Associates
500 West Main, Suite 609
Oklahoma City, Oklahoma 73102

In re Application of: Clark Edward Lubbers
Serial No.: 11/772,175
Filed: June 30, 2007
Docket: STL13493
Title: PROCESSING WRONG SIDE I/O COMMANDS

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 September 4, 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 June 30, 2007. That petition was dismissed in a decision mailed on August 1, 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 were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4 and II.6.6.

The Renewed Petition, while complying with the requirements of conditions II.5, II 6.3, II.6.4 and II.6.6, is still found to be deficient with respect to conditions II.5.1 and II.5.2, and II.6.2.

With respect to item II.5.2, for database searches (US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) petitioner was notified that **petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search.** Applicant states in the Explanation of Patentability section that "the cited references do not disclose **a dual active-active array controller with first and second policy processors each having respective ISPs with a plurality of function controllers, and programming to maintain each ISP in top level control of storage**

transactions from any of the function controllers with respect to a storage space for which the ISP is the unit master. Furthermore, as set forth in the "Identification of the Features of the Claims Disclosed by the Disclosed References," each of the **dependent claims** recites additional features not disclosed by the cited references and are therefore **all separately patentable**.".

However the search logic presented in the original petition and unmodified in the renewed petition is as follows:

(1) "array controller" and (dual or redundant) and ("functions core" or FCC)

(2) "array controller" and (dual or redundant) and (list and manag$)

(3) "array controller" and (dual or redundant) and asynchronous and process$

(4) "array controller" and (dual or redundant) and (policy and (processor or processing))

(5) "array controller" and (dual or redundant) and "remote I/O"

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.:

A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

There is no indication in the original petition or the renewed petition that the features of "a dual active-active array controller with first and second policy processors each having respective ISPs with a plurality of function controllers, and programming to maintain each ISP in top level control of storage transactions from any of the function controllers with respect to a storage space for which the ISP is the unit master" as explained in the "Explanation of Patentability" section were searched by applicants. While applicants have searched for ("function$ core" or FCC), applicants have not searched for, for instance, ("function controllers" or "FC"s or ISPs or synonyms or variations of these terms that appear in the claim language. There is no indication that "policy processors partnered with ISPs", "maintain first policy processor in top level control of transactions requests associated with network I/O commands directed to s storage LUN" (as claimed in claim 1, for example), "a host exchange controller that indexes a LUN table by a Destination ID command frame value" (as claimed in claim 2, for example), "event ring buffer" (as claimed in claim 4, for example), "Data ring buffer" (as claimed in claim 5, for example), "ERB synchronizing LM transaction responses associated with local I/O commands" (as claimed in claim 8 for example) were searched by applicant, nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features. The petition dismissal listed some of the above features as examples of features that were not included in applicant's search logic.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **31 hits** for the search string " "array controller" and (dual or redundant) and ("functions core" or FCC)", **512 hits** for the search string " "array controller" and (dual or redundant) and (list and manag$) ",**171 hits** for the search string "array controller" and (dual or redundant) and (policy and (processor or processing)) ", **7 hits** for the search string "array controller" and (dual or redundant) and "remote I/O". The other search string listed " "array controller" and (dual or redundant) and asynchronous and process$ " resulted in error since the term "process$" had too many variations for the ending, for example "process", "processor", "processed", "processing", etc., that an effective search of this search string could not be completed. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to "encompass the claimed subject matter". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Additionally, regarding item II.5.1, for database searches (US Patents/Apps: Foreign Patents/Apps: WIPO), applicants state that all references were considered in each class/subclass at least by title. However, it is not clear from this statement to what extent the full disclosure of each of the documents were considered in each of the class/subclass searched, so as to effect a search encompassing ***all*** of the features of the claims, given their broadest interpretation, as required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2, Applicants were notified that Applicants should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which 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/. Applicants have responded by stating (on page 4 of Remarks) that " Applicant has in fact mapped the disclosure of the cited references to the extent possible with regard to the recited language of all the claims. Again, Applicant describes relevant disclosure of Horn '297 with respect to the subject matter of claims 1, 12, and 20.".

Applicants have amended the specification of instant application to make it a continuation-in-part of US 2006/0277350 to Lubbers ("Lubbers '350). Applicant further states that Lubbers '350 is cumulative to Horn '297. It is noted that a parent application, from which the instant application claims continuity, can never be used as a prior art against the instant application. Hence Lubbers'350 is not valid prior art.

As for Horn '297, the explanation of the references did indicate what is generally disclosed in the references, but failed to clearly indicate what limitations, if any, of each claim (including

dependent) are present in the references. For example, with respect to claim 1, the claim recites "A dual ported active-active array controller apparatus comprising:
a first policy processor partnered with a first intelligent storage processor (ISP) having a first plurality of dedicated purpose function controllers (FCs);
a second policy processor partnered with a second ISP having a second plurality of dedicated purpose FCs;
a communication bus interconnecting the ISPs; and
programming instructions stored in memory and executed by the apparatus to maintain the first policy processor in top level control of transaction requests from both the first plurality of FCs and the second plurality of FCs that are associated with network input/output (I/O) commands directed to a storage logical unit number (LUN) which the first ISP is a logical unit master of.".

Applicants state ("Identification of the Features of the Claims Disclosed by the Disclosed References" section) with respect to claim 1, "Horn '297 discloses a first storage processor ASIC (1610 in FIG. 16) with a plurality of dedicated purpose function controllers (905,906, 340) and a second storage processor ASIC (1650) with a plurality of dedicated purpose function controllers (905,906, 340), the ASICs interconnected by an ebus (1630).". While this describes what the Horn reference is drawn to, it does not provide a claim-by-claim mapping of the pertinent subject matter disclosed in the reference, **specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference**. For instance, is the applicant equating the ASIC processor of Horn to the ISP of the instant application? Applicant further states that Independent claim 1 is not anticipated by Horn '297 at least because Horn '297 does not disclose a first policy processor partnered with a first intelligent storage processor (ISP) and a second policy processor partnered with a second ISP and programming instructions stored in memory and executed by the apparatus to maintain the first policy processor in top level control of transaction requests from both the first plurality of FCs and the second plurality of FCs that are associated with network input/output (I/O) commands directed to a storage logical unit number (LUN) which the first ISP is a logical unit master of.". Further, as explained in the sections above, this feature that is said to make the application patentably distinct over prior art, has not been included in applicant's search logic. Furthermore, limitations, such as the final limitation in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. The same holds true for the other independent claims 12 and 20, and all the dependent claims.

With respect to claim 20, applicant states "Claim 20 is not anticipated by Horn '297 because it does not disclose any structure capable of transacting right side and wrong side I/O commands together in real time on a unit master side of the controller.". Applicant is silent regarding the rest of claim 20, which recites "A storage system comprising:
a dual active-active array controller, each side having a plurality of dedicated purpose function controllers selectively coupled to a policy processor via a list manager communicating with a peripheral device bus to which the policy processor is connected; and
means for synchronizing right side and wrong side I/O commands together in real time on a unit master side of the controller.". Does Horn teach/disclose "a dual active-active array

controller, each side having a plurality of dedicated purpose function controllers selectively coupled to a policy processor via a list manager communicating with a peripheral device bus to which the policy processor is connected"?

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.

Regarding claiming continuation-in-part to a parent application, item II.6.5 states "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". Applicant has failed to provide such support with respect to Lubbers '350. However, reviewer will accept applicant's discussion of Lubbers '350 with respect to the claims of the instant application, expressly stating claim limitations that are said to be not anticipated by Lubbers '350 (refer "Identification of the Features of the Claims Disclosed by the Disclosed References" section), as providing the support for the claimed features under item 6.5. ***Since applicant has disclosed that none of the claims are fully anticipated by Lubbers '350, it will be noted that none of the claims of the instant application will have priority to the earlier filing date of Lubbers '350.***

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.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed to Mano Padmanabhan, at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100

Director, TC 2100

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McCarthy & Associates
500 West Main Street, Suite 609
Oklahoma City, OK 73102

JUL 20 2007

In re Application of:	:	
Grant Edward Carlson	:	DECISION ON PETITION TO
Serial No.: 11/772,189	:	MAKE SPECIAL FOR NEW
Filed: June 30, 2007	:	APPLICATION UNDER 37
Title: CARRIER FOR A MULTIPLE DISK ARRAY	:	C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the petition filed on June 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 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 was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. On July 6, 2007, the Office of Initial Patent Examination mailed to applicant a "Notice to File Corrected Application Papers" requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The mailing of the "Notice to File Corrected Application Papers" is evidence that the application was not complete and in condition for examination at the time of its filing.

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

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/

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
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Mail Date: 04/21/2010

Applicant	: Grant Edward Carlson	: DECISION ON REQUEST FOR
Patent Number	: 7633748	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/772,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **187** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of
John Robert Sheahan et al.
Application No. 11/772,235 : ON PETITION
Filed: July 7, 2007
Attorney Docket No. PLTO55US

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed July 1, 2009. A response was filed September 30, 2009 but by Advisory Action of October 13, 2009, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed March 10, 2010.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that the previously filed amendment of September 30, 2009 be considered as the submission required under 37 CFR 1.114.

Additionally, however, a review of the record reveals that a one month extension of time was also filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $130.00 extension of time fee

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

submitted with the petition on April 5, 2010, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-4049.

This matter is being referred to Technology Center 2853 for processing of the RCE. 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

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of
Aviel Amit
Application No. 11/772, 252
Filed: July 2, 2007
Title: Creation of Visual Composition of Product

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 15, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on July 20, 2007. The Notice to File Corrected Application Papers 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 September 21, 2007. A Notice of Abandonment was mailed on April 2, 2008.

Petitioner maintains a reply to the Notice to File Corrected Application Papers was submitted on September 11, 2007. In support of petitioner's argument, a copy of a postcard receipt and a copy of the reply has been provided.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on September 11, 2007 of, inter alia, corrected drawings. A copy of the previously submitted reply accompanies the petition.

The postcard acknowledged as having been received in the USPTO on September 11, 2007 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the corrected application was timely received in the USPTO but lost after receipt thereof.[1]

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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 with petition.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

[1]It should be noted this petition is being granted because a review of the record shows that the record is devoid of any documents dated September 11, 2007. Any future postcards should include all parts of the application being submitted should be separately listed on the postcard, e.g., the numberof pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

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OFFICE OF PETITIONS

In re Application of :
Kumbi et al. :
Application No. 11/772,255 : DECISION ON PETITION
Filed: July 2, 2007 :
Attorney Docket No. ORCL-057 :

This is a decision on the petition, filed April 4, 2008, 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 under § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f).

The above-identified application became abandoned for failure to file a response to the Notice to File Missing Parts mailed July 20, 2007. This Office action set a two-month shortened statutory period for reply, with extensions of time obtainable under §1.136(a). No reply having been received, the above-identified application became abandoned on September 21, 2007. A courtesy Notice of Abandonment was mailed on April 2, 2008.

Petitioner asserts that a general authorization to charge any underpayment to deposit account no. 20-0674 was submitted on July 11, 2007.

Although the record shows that a general authorization was present on July 11, 2007, the record is devoid of any reply to the Notice to File Missing Parts. The time to make the argument that a general authorization to charge the additional claim fees of $200.00 was present in the file was during the two month period of reply.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1540.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Kumbi et al. :
Application No. 11/772,255 : DECISION ON PETITION
Filed: July 2, 2007 :
Attorney Docket No. ORCL-057 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a response to the Notice to File Missing Parts mailed July 20, 2007. This Office action set a two-month shortened statutory period for reply, with extensions of time obtainable under §1.136(a). No reply having been received, the above-identified application became abandoned on September 21, 2007. A courtesy Notice of Abandonment was mailed on April 2, 2008. A petition under 37 CFR 1.181 was dismissed on May 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 $210 claim fees, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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MAIL

JUN 12 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
TAKARA, MAHO	:	DECISION ON REQUEST TO
Application No. 11/772,302	:	PARTICIPATE IN PATENT
Filed: July 2, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. JP920060036US1	:	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 4, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

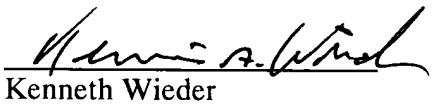
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.



Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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918 Prince Street
Alexandria, VA 22314

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JAN 21 2010

OFFICE OF PETITIONS

In re Application of :
Chii-Chang Lee, et. al. :
Application No. 11/772,310 : DECISION ON PETITION
Filed: July 2, 2007 : TO WITHDRAW FROM
Attorney Docket No. P3763US00 : 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 2818 for examination in due course.

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

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OFFICE OF PETITIONS

In re Application of
Randall B. Chinnock
Application No. 11/772,363
Filed: July 2, 2007
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed April 17, 2008.

The petition is **DISMISSED.**

The record reflects that a Notice to File Missing Parts of Non-Provisional Application was mailed July 23, 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. No response was received within the allowable period and the application became abandoned on September 24, 2007. A Notice of Abandonment was mailed on April 3, 2008.

Petitioner maintains that a response was mailed on August 23, 2007, but was not noted by the USPTO.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of

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

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner has not provided *prima facie* evidence that the reply was deposited with the USPS Express Mail Service within the period for reply, and has not provided a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard showing that the reply was filed or deposited in the mail on, or before, September 23, 2007[1]. The petition is dismissed accordingly.

---

[1] The Office date-stamped postcard filed with the petition noting a response as being filed April 17, 2008 is noted. However, a response filed April 17, 2008, would not have been timely. It is also noted that the application serial number cited on the postcard is incorrect. No Office date-stamped postcard noting a reply as being received on August 23, 2007, was found the petition papers.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIRICK O'CONNELL DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Randal B. Chinnock :
Application No. 11/772,363 :
Filed: July 2, 2007 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed July 23, 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) was obtained. Accordingly, the above-identified application became abandoned on September 24, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER MA 01944

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of :
Dov GLUCKSMAN et al. :
Application No. 11/772,388 : DECISION ON PETITION
Filed: July 2, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. A85-045 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 18, 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 certification by a registered attorney/agent having evidence showing one named inventor in the application is 65 years of age, or more. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at 571-272-6052, or in his absence, to the undersigned at 571-272-9077.

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 3742 for action on the merits commensurate with this decision.

for David Bucci
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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OFFICE OF PETITIONS

DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC MI 48342

In re Application of :
KNIFFEN, David :
Application No. 11/772,400 : DECISION ON PETITION
Filed: July 02, 2007 : TO WITHDRAW
Attorney Docket No. **1378-001** : 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 April 02, 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 Eric Kurtycz on behalf of all attorneys of record who are associated with customer No. 25215. 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 David Kniffen at the address indicated below.

There is an outstanding Office action mailed March 11, 2010 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVID R. KNIFFEN**
5501 BOROS
TROY, MICHIGAN 48085

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of Bowers et al. :
Application No. 11/772,407 : Decision on Petition
Filing Date: July 2, 2007 :
Attorney Docket No. PC-1922DIV :

This is a decision in response to the petition under 37 CFR 1.57(a) filed September 11, 2007, requesting that the above-referenced application be accorded a filing date of July 2, 2007.

The petition is **granted**.

Facts:

The instant application is a divisional of Application No. 11/241,616.

On July 2, 2007, applicants filed:

(1) a three page Application Data Sheet,
(2) a three page executed declaration,
(3) a ten page preliminary amendment consisting of:
    (A) one cover page,
    (B) five pages of changes to the specification including two pages of claims,
    (C) three sheets of drawings (adding Figures 17 to 23), and
    (D) one page of remarks,
(4) a five page IDS Statement, and
(5) a two page Fee Worksheet.

The Application Data Sheet filed July 2, 2007, includes a proper priority claim based on Application No. 11/241,616.

Although the petition states the "Preliminary amendment ... included a referenced priority to a prior filed application," the amendment does not include a priority claim.

Applicants failed to file a copy of the specification, claims, and drawings from the prior application.

The Office mailed a Notice of Incomplete Application on September 4, 2007, indicating the application had not been accorded a filing date because a specification had not been filed. The

Notice also stated Figures 1 to 16 of the drawings appeared to be missing from the papers filed July 2, 2007.

Petitioner filed the instant petition on September 11, 2007. A specification, claims, and drawings from the prior application accompany the petition. Petitioner requests the specification, claims, and drawings be entered and the application be accorded a filing date of July 2, 2007. Petitioner does not state the specification, claims, and drawings are an exact copy of the specification, claims, and drawings filed in the prior application. Based on the context of the submission, the Office assumes the papers are a true and exact copy of the specification, claims, and drawings filed in the prior application. If this is not the case, then petitioner must notify the Office.

Discussion:

For applications filed on or after September 21, 2004, one may add inadvertently omitted material needed for a filing date to an application and be accorded a filing date as of the original date of deposit of the application paper upon the filing of a grantable petition under 37 CFR 1.57(a)(3).

In order to obtain relief under 37 CFR 1.57(a)(3), one must,

(1) submit the petition fee set forth in 37 CFR 1.17(f),
(2) demonstrate the originally filed application papers included a claim for priority under 37 CFR 1.55 or 37 CFR 1.78,
(3) identify where the inadvertently omitted material can be found in a prior-filed application,
(4) demonstrate the omitted material is "completely contained" in a prior application,
(5) file an amendment to add the inadvertently omitted material,
(6) supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111,
(7) supply an English language translation of any prior-filed application that is in a language other than English, and
(8) comply with the time requirements set forth in 37 CFR 1.57(g).

Petitioner has satisfied the requirements set forth above.

The Office of Patent Examination Processing will be informed of the instant decision and will process the application with a filing date of July 2, 2007, using the papers filed on July 2, 2007, and the copy of 16 pages of specification (12 pages written description, 3 pages claims, 1 page abstract) and 10 sheets of drawings filed September 11, 2007.

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

Anthony Knight
Supervisor
Office of Petitions

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GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER MA 01944

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Dov Z. Glucksman, et al.	:	
Application No. 11/772,416	:	DECISION ON PETITION
Filed: July 2, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. A85-046	:	37 CFR 1.102(c)(1)
	:	

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

The petition is **GRANTED**.

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

The instant petition includes a statement from applicant's attorney that he is in possession of proof of applicant Dov Glucksman's age. 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 3742 for action on the merits commensurate with this decision.

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

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MAR 2 6 2010

OFFICE OF PETITIONS

MENDELSOHN, DRUCKER & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

In re Application of	:	
Bob CEFAIL	:	
Application No. 11/772,449	:	DECISION ON PETITION
Filed: July 2, 2007	:	TO WITHDRAW
Attorney Docket No. 1132.001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 15, 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 is not that of the first named inventor; or an assignee of the entire interest who has properly been made of record under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address 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

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Alexandria, VA 22313-1450
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MENDLESOHN, DRUCKER & ASSOCIATES P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA PA 19102

MAILED

APR 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Bob CEFAIL	:	
Application No. 11/772,449	:	DECISION ON PETITION
Filed: July 2, 2007	:	TO WITHDRAW
Attorney Docket No. 1132-001	:	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 April 6, 2010.

The request is **APPROVED**.

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

All the attorneys of record have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified by the applicant.

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: BOB CEFAIL
1449 WETHERINGTON WAY
PALM HARBOR, FL 34683

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
11/772,449	07/02/2007	Bob Cefail	1132.001

CONFIRMATION NO. 9607

POWER OF ATTORNEY NOTICE

22186
MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Date Mailed: 04/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2010.

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

/dcgoodwyn/

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

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KELLEY DRYE & WARREN, LLP
400 ATLANTIC STREET, 13TH FLOOR
STAMFORD, CT 06901

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OFFICE OF PETITIONS

In re Application of :
Richard H. SELINFREUND, et al :
Application No. 11/772,459 : DECISION ON PETITION
Filed: July 2, 2007 : TO WITHDRAW
Attorney Docket No. VTI-7017.2(C) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **APPROVED**.

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

The request was signed by Hans-Peter G. Hoffman, Ph.D on behalf of the attorneys of record associated with Customer No. 47670.

The attorneys of record associated with Customer No. 47670 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 address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD H. SELINFREUND
1285 MOOSE HILL ROAD
GUIFFORD, CT 06437

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JAMES D. STEVENS
REISING ETHINGTON P.C.
P.O. BOX 4390
TROY, MI 48099

Mail Date: 04/21/2010

Applicant	: Paul Tinwell	: DECISION ON REQUEST FOR
Patent Number	: 7569978	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/772,553	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **210** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 1 - 2007

Technology Center 2100

Todd Cason
Baker Botts L.L.P.
2001 Ross Avenue
SUITE 600
Dallas TX 75201-2980

In re Application of:
Richard Washington, ET AL.
Serial No.: 11/772582
Filed: July 02, 2007
Docket Number: 077112.0120
Title: **System and Method for Monitoring Content**

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 2, 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, II 1-5.1, II 5.4-6.5 above are considered to have been met. However, the petition fails to comply with conditions II 5.2 –5.3 & 6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPE P § 708.02(a)(I)(H)[1] and items 5, 5.2 & 5.3 above, the pre-exam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the claims. Based upon the claimed signature based copy protection system subject matter of the instant application, a search in the following class and subclasses are necessary in order to provide full coverage of where the most pertinent references are most likely to be found: 713/170, 713/176, 380/201, 726/32 and 705/57.

This additional search area and search logic was confirmed with (and recommended by) a Primary examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I)(6) and item 6.6 above, the examiner support document fails to identify any references that may be disqualified as prior art under 35 USC 103(c) or fails to include a statement that no documents are disqualified.

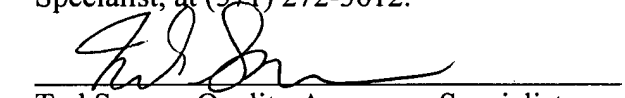
DECISION

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 Tod Swann, Quality Assurance Specialist, at (571) 272-3612.



Tod Swann, Quality Assurance Specialist
Technology Center 2100

[1] MPEP 8th ed. rev 5 August 2006

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SEP 27 2007

Technology Center 2100

Todd Cason
Baker Botts L.L.P.
2001 Ross Avenue
SUITE 600
Dallas TX 75201-2980

In re Application of:
Richard Washington, ET AL.
Serial No.: 11/772582
Filed: July 02, 2007
Docket Number: 077112.0120
Title: **System and Method for Monitoring Content**

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 refilled petition of September 4, 2007 of the orginal petition filed on July 2, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d) which was dismissed on August 1, 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).

REVIEW OF FACTS

The next three paragraphs outline the reason why the original petition was dismissed.

The conditions I 1-4, II 1-5.1, II 5.4-6.5 above are considered to have been met. However, the petition fails to comply with conditions II 5.2 –5.3 & 6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPE P § 708.02(a)(I)(H)[1] and items 5, 5.2 & 5.3 above, the pre-exam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the claims. Based upon the claimed signature based copy protection system subject matter of the instant application, a search in the following class and subclasses are necessary in order to provide full coverage of where the most pertinent references are most likely to be found: 713/170, 713/176, 380/201, 726/32 and 705/57.

With regard to the requirement of MPEP § 708.02(a)(I)(6) and item 6.6 above, the examiner support document fails to identify any references that may be disqualified as prior art under 35 USC 103(c) or fails to include a statement that no documents are disqualified.

The August 28, 2007 renewed petition provided a proper statement with regard to item 6.6 above and provided a search of 380/201 so those requirements have now been meet.

Instead of completing a classified search of all of the identified subclasses listed above petitioner argued that the text search provided in the original petition which combined keywords with the classes 713, 705 and 726 covered the subclasses already. Petitioner included the following statement to persuade the office that a proper search was performed "The keyword search performed were not reasonable expected to exclude a substantial relevant references in the mentioned subclasses". In an effort to clarify the dismissal Petitioner called and spoke in detail with Kakali Chaki. Ms. Chaki said that it is possible to generate a text search that would in essence duplicate a classified search of a subclass that would meet the requirements of required search.

DECISION

I concur that a properly formatted text search query could in essence duplicate a classified search and would satisfy the requirement of a proper search according to MPEP 708. A review of the text search history in the original petition indicates that the text search was not encompassing enough to reasonable cover the subclasses discussed above. Numerous synonyms and concepts which would have been looked at in a subclass search are not covered by the submitted text search. Here are just a few of the deficiencies. There are many more necessary synonyms to searched string of (fingerprint signature histogram grayscale chroma frequency) for example

[1] MPEP 8th ed. rev 5 August 2006

finger print, footprint, foot print, thumbnail, melody patterns, beats per minute, lyrical comparison, mood comparison frequency of chord change, average sound level vocal information like sad/lonely factors, encouraging factor. There are a number of more terms that should have been included in the text string (media content multimedia multi$1medi image picture audio music video movie) for example song or songs, speeches and voice. All of the text queries include the following phrase (domain wavelet representation characteristic analysis transform algorithm filter) this query is too limiting, as it would exclude matching and comparison. Applicants own specification on page 12 discusses comparison of files using object identification algorithms including detect whether a certain face was detected at particular loction or whether foliage was detected. None of these concepts were included in the keyword search history explicitly.

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 Tod Swann, Quality Assurance Specialist, at (571) 272-3612.

Tod Swann, Quality Assurance Specialist
Technology Center 2100

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Joseph CALLERAME
Application No. 11/772,657
Filed: July 2, 2007
Attorney Docket No. 39377-105427

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas Donovan does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TIMOTHY J. ENGLING
MILLER, CANFIELD, PADDOCK
AND STONE, P.L.C.
277 SOUTH ROSE STREET, SUITE 5000
KALAMAZOO, MI 49007

cc: THOMAS DONOVAN/IP CHAIR
PO BOX 2790
CHICAGO, IL 60690-2790

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CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of	:	
Ali Araghi	:	DECISION ON PETITION
Application No. 11/772,668	:	TO WITHDRAW
Filed: July 2, 2007	:	FROM RECORD
Attorney Docket No. 10-005-US1 (IST 3777001)	:	

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.*

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 03705 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 The Office will 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). This includes address changes to law firms, where no new power of attorney has been filed in the application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is 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
Petitions Examiner
Office of Petitions

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

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APR 24 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Chadwick Loring Wilson :
Application No. 11/772,699 :
Filed: July 2, 2007 :
Attorney Docket No. 8728.15 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a complete reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed July 18, 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 September 19, 2007. A Notice of abandonment was mailed on January 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form the fees of $200 for claims in excess of twenty and a surcharge of $130 as set forth in 37 CFR 1.16(f), (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Petitioner should note that the fees submitted on March 16, 2009, for claims in excess of twenty and surcharge will be refunded to petitioner's deposit account since those fees were previously paid on November 14, 2007.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquires related to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WOODLING, KROST AND RUST
9213 CHILLICOTHE ROAD
KIRTLAND OH 44094

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JAN 25 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7537708 :
Issue Date: 05/26/2009 :
Application Number: 11/772755 :
Filing or 371(c) Date: 07/02/2007 :
Attorney Docket Number: 8416 :

This is a decision on the paper filed on December 29, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The processing fee of $130.00 pursuant to 37 CFR 1.17(i) will be charged to counsel's deposit account, as authorized in the subject request.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

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APR 14 2008

OFFICE OF PETITIONS

In re Application of
Jinbo, et al.
Application No. 11/772,788
Filed: July 2, 2007
Attorney Docket No. 57139-5093

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 4, 2008 to expedite the handling of the petition under 37 CFR 1.182, filed, April 2, 2008, to correct the spelling of the name of inventor "YOSHIHIRO Yamada" to – YOSHITSUGU Yamada --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

As authorized, the $800 fee for the two petitions under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

The matter is being referred to Technology Center Group Art Unit 3683 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

CC: Brennan C. Swain *via* Facsimile at (310) 203-0567

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/772,788	07/02/2007	3683	1000	57139-5093	14	2

CONFIRMATION NO. 1148

CORRECTED FILING RECEIPT

24574
JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

Date Mailed: 04/11/2008

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)

Masahiko JINBO, Sakai City, JAPAN;
Takeshi TAKACHI, Sakai City, JAPAN;
Satoshi SHAHANA, Sakai City, JAPAN;
Yoshitsugu YAMADA, Sakai City, JAPAN;

Assignment For Published Patent Application

SHIMANO INC., Sakai City, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 24574

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/772,788**

Projected Publication Date: 01/08/2009

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-POSITION BRAKE LEVER SYSTEM WITH A CONVERTER THAT CONVERTS A CABLE ACTUATOR TO A HYDRAULIC ACTUATOR

Preliminary Class

188

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/772,808	07/02/2007	Louis B. Rosenberg	3502.115	1179

7590 06/03/2008

SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
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SAN LUIS OBISPO, CA 93406

EXAMINER	

ART UNIT	PAPER NUMBER
2153	

MAIL DATE	DELIVERY MODE
06/03/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
06/03/2008 0030056437

Credit Card Refund Total: $850.00

VISA....: XXXXXXXXXXXX0283

Adjustment date: 06/03/2008 WFARMER
07/03/2007 INTEFSW 00003927 11772808
02 FC:2111 -250.00 OP
04 FC:2202 -600.00 OP

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Davis Wright Tremaine LLP/Mankind Corporation
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505 MONTOGOMERY STREET
SAN FRANCISCO CA 94111-6533

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APR 13 2009

OFFICE OF PETITIONS

In re Application of Simard et al. :
Application No. 11/772,811 : Decision on Petition
Filing Date: July 2, 2007 :
Attorney Docket No. 40000220-0015-004 :

This is a decision in response to the petition filed September 8, 2008, which requests the application be accorded a filing date of July 2, 2007, and requests entry of the drawings filed September 8, 2008. As will be discussed in this decision, the petition has been treated as a petition under 37 CFR 1.53.

The petition is **granted** to the extent indicated herein.

Procedural History:

On July 2, 2007, the application was inadvertently filed without drawings.

On July 8, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application." The Notice stated in part that drawings did not appear to be part of the application as filed and that a filing date would be accorded upon the submission of drawings.

On September 8, 2008, petitioner filed an amendment pursuant to 37 CFR 1.57(a), the instant petition, and a petition fee of $400. Petitioner requests the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a proper priority claim under 37 CFR 1.55 or 1.78.

Discussion:

One must always file an amendment in order to add material pursuant to 37 CFR 1.57(a), However, a petition under 37 CFR 1.57 and the $400 fee is only necessary if the application is not entitled to a filing date absent the missing material.

The Office has chosen to initially treat the petition as a petition under 37 CFR 1.53(e) in order to determine if the application should have been accorded a filing date without the drawings. If the application should have been accorded a filing date without the drawings, then a petition under 37 CFR 1.57 is unnecessary and the $400 fee is refundable.

A review of the application papers filed July 2, 2007, indicates the papers included at least one method claim. 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).

Pursuant to MPEP 601.01(f), drawings should not have been required in order to accord the application a filing date. In other words, the Office should have accorded the application a filing date without the drawings.

The Office should have granted the application a filing date of July 2, 2007, and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated under the section titled, "Application Entitled to a Filing Date," in MPEP 601.01(g), applicant may submit an *amendment* to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

> [If the] 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.

Since the application is entitled to a filing date without the drawings, an amendment pursuant to 37 CFR 1.57(a) does not need to be accompanied by a petition under 37 CFR 1.57 and the petition fee of $400 has been refunded to petitioner's credit card.

Please note an amendment pursuant to 37 CFR 1.57(a) must comply with the requirements of 37 CFR 1.121. For example, per 37 CFR 1.121(d), any new drawings added to an application must include in the top margin the label "New Sheet." To the extent the amendment filed September 8, 2008, fails to comply with 37 CFR 1.121, petitioner may wish to file a new preliminary amendment that complies with to the requirements of 37 CFR 1.121.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing for:

- **correction of the filing date to July 2, 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 September 8, 2008, will be determined by the examiner in due course.

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

Anthony Knight
Supervisory 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 19 2008

In re Application of :
BULFIN, Williams, J. :
Application No. 11/772,815 : DECISION ON PETITION
Filed: July 2, 2007 : TO WITHDRAW
Attorney Docket No. RSW920070097US1 : FROM RECORD
:

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 DISMISSED as moot.

A review of the file record indicates that the power of attorney to GERALD J. IWANEJKO, JR. 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: LEE LAW, PLLC
IBM CUSTOMER NUMBER
P.O. BOX 189
PITTSBORO, NC. 27312

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

Mail Date: 04/20/2010

Applicant	: John R. Klaehn	: DECISION ON REQUEST FOR
Patent Number	: 7632898	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/772,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2007	: 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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OFFICE OF PETITIONS

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

In re Application of :
Mizuki Sato :
Application No. 11/772,924 : ON PETITION
Filed: July 3, 2007 :
Attorney Docket No. 12732-0489001

This is a decision on the petition, filed March 23, 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 February 22, 2010 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 2826 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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RALEIGH, NC 27627

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of
LORA, et al.
Application No. 11/772,944
Filed: July 3, 2007
Attorney Docket No. **9268-18**

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 27, 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, "termination of client representation for this matter", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JENNIFER SMITH**
IBM CORPORATION, IQ0A/040-3
1701 NORTH STREET
ENDICOTT, NY 13760

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TECHNOLOGY CENTER 2600

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Application of:
FRANKEL, DAVID P.
Serial No.: 11/772,945
Filed: July 03, 2007

Title: **IDENTITY-BASED CONFERENCING SYSTEMS AND METHODS**

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 03, 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., 5.2, and 6.5.

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. and 5.2 above, the preexamination search document provided with the instant petition is deficient as follows: the US Field of Search and Databases Searches which are to be provided under section 8(a) are not sufficient. In addition to the field of search provided, applicant would also need to search in the following class/sublasses: 379/201.02, 201.03, 203.1, 206.01, 207.01-207.03 and 207.11. In addition to the database search provided, applicant would need to include the search string "(conference or 3-way or three way) near4 (time or date)".

Regarding the requirement in item 6.5 above, the Accelerated Examination Support Document is deficient because section 9(E) it fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of the specification. Petitioner provides general statements that support for groups of claims is found in a group of drawings but fails to include a showing where each limitation of the claims finds support. Furthermore, petitioner states that this application is a continuation of SN 11/738,917, but does not provide any indication of where support for each limitation of the claims finds support in the parent application. Clarification is required

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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
FRANKEL, DAVID P.
Serial No.: 11/772,945
Filed: July 03, 2007

Title: **IDENTITY-BASED CONFERENCING SYSTEMS AND METHODS**

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 August 21, 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 August 1, 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 Michael Horabik, Quality Assurance Specialist, at (571) 272-2986.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :

ZHONG, William J.S. et al. :
Application No. 11/772,960 : DECISION ON PETITION
Filed: July 03, 2007 : TO WITHDRAW
Attorney Docket No. **2008819-0007** : FROM RECORD
:

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, 2009.

The request is **APPROVED**.

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

The request was signed by John 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.

All future correspondence will be directed to the first named inventor William Zhong at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialst
Office of Petitions

cc: **WILLIAM J.S. ZHONG**
161 CEDAR HEIGHTS ROAD
STAMFORD CT 06905

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OFFICE OF PETITIONS

In re Application of :
Rakesh MULLICK et al. :
Application No. 11/772,975 :
Filed: July 03, 2007 :
Attorney Docket No. 217132-1 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 18, 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 September 19, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee of $1540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of July 18, 2007 is accepted as having been unintentionally delayed.

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

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

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OFFICE OF PETITIONS

In re Application of
Wiliam D. Verhoef et al.
Application No. 11/772,994
Filed: July 3, 2007
Attorney Docket No.
009.2038C1(P0020494.01)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 18, 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. Applicants lack item (1).

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). Petitioner currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventors Fuller and Nghiem, 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.

In regard to the required diligent effort, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future

petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to the personnel records of inventors Fuller and Nghiem and, if so, what does inspection of the records reveal as to a current addresses, forwarding addresses, or an address of the nearest living relatives? What does inspection of the phone directories for those address locations reveal?

Furthermore, Petitioner indicates that contact with inventor Fuller was attempted through mail by Federal Express and with inventor Nghiem through mail by Federal Express and e-mail. The facts of record do not indicate that the previous mailings included a request for a return receipt and/or forwarding address.

At the very least, petitioner should mail correspondence to the inventors' 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 the inventor'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. Moreover, the successful communications conducted with inventor Nghiem through email by Thomas G. Berry demonstrate that simply mailing a package via federal Express is not indicative of the required diligent effort. These emails also show that Mr. Nghiem can be found, contrary to the suggestion of Michelle A. Smojver in her declaration. The record suggests that Mr. Nghiem may have refused to sign the declaration rather than establishing that he cannot be reached.

When it is concluded by rule 47 applicants that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted. Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The declaration of Thomas G. Berry indicates in paragraph 3 that only a copy of the combined Declaration and Power of Attorney document was forwarded to Mr. Nghiem. Petitioner must provide proof that a *bona fide* attempt was made to present a copy of the application papers (specification, claims, drawings, oath, etc.) to the nonsigning inventors for signature. The email exchange between Tom Berry and David Nghiem suggests that Mr. Nghiem is not clear as to what his signature would attest. He did not explicitly refuse to sign the declaration but expressed that he did "not want [his] name associated with the loop antenna designs that have been utilized

by Biotronik and the RFID industry." A proper presentation of the complete application, clearly noting his contribution, may help to clarify any confusion.

Furthermore, the inventorship in this application is not clear. Two inventors are added to this application, which is designated as a continuation, that were not present in parent application 11/116,691. This suggests that new matter under 35 USC 112, first paragraph, may be present in application 11/772,994. A cursory review of the specification reveals that the instant application includes one additional paragraph that is not present in parent application 11/116,691, which further suggests that new matter may be present. Also, in the email dated June 29, 2007, Mr. Nghiem states that "Mr. Bill Verhoef, Dr. Piotr Przybyskewski, Mr. Gregory Haubrich, and Mr. Christopher Fuller had nothing to do with the designs." Applicants should carefully review the inventorship of this application, present a signed oath or declaration reflecting the correct inventorship, and, if necessary, correct the designation of this application from a continuation to a continuation-in-part.

In addition, the email exchange between Tom Berry and David Nghiem does not appear to be complete. Each email includes a section labeled "2)" below a space, which suggests that a section labeled "1)" was present in the original emails but omitted in the copy submitted with the petition. Any renewed petition should provide the complete email exchange for review in the event that section "1)" was omitted.

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 Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
SEP 25 2008
OFFICE OF PETITIONS

COPY MAILED
SEP 25 2008
OFFICE OF PETITIONS

In re Application of	:	
William D. Verhoef et al.	:	DECISION GRANTING STATUS
Application No. 11/772,994	:	UNDER 37 CFR 1.47(a)
Filed: July 3, 2007	:	
Attorney Docket No.	:	
009.2038C1(P0020494.01)	:	

This is a decision on the petition filed, August 11, 2008, requesting reconsideration of a decision mailed June 11, 2008, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

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

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

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries regarding this decision should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David Nghiem
5990 Highview Place
Shoreview, Minnesota 55126

COPY MAILED

SEP 25 2008

OFFICE OF PETITIONS

In re Application of
William D. Verhoef et al.
Application No. 11/772,994
Filed: July 3, 2007
For: TELEMETRY ANTENNAS FOR IMPLANTABLE MEDICAL DEVICES

Dear Mr. Nghiem:

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 Christopher Bottorff at (571) 272-6692. 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).

David Bucc
Petitions Examiner
Office of Petitions

cc: INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 25 2008

OFFICE OF PETITIONS

Christopher C. Fuller
8901 River Ridge Circle
Bloomington, Minnesota 55425

In re Application of
William D. Verhoef et al.
Application No. 11/772,994
Filed: July 3, 2007
For: TELEMETRY ANTENNAS FOR IMPLANTABLE MEDICAL DEVICES

Dear Mr. Fuller:

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 Christopher Bottorff at (571) 272-6692. 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).

David Bucci
Petitions Examiner
Office of Petitions

cc: INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

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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N. KENNETH BURRASTON
KIRTON & MCCONKIE
P.O. BOX 45120
SALT LAKE CITY, UT 84145-0120

MAILED

MAR 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Treliant Fang	:	
Application No. 11/772,998	:	ON PETITION
Filed: July 3, 2007	:	
Attorney Docket No. P158C2C1-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination 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). In view of the two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a), filed August 27, 2008, the date of abandonment of this application is August 29, 2008. A Notice of Abandonment was mailed February 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment including a Terminal Disclaimer and fee of $140, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1795 for further examination on the merits.

/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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SCHLUMBERGER TECHNOLOGY CORPORATION
David Cate
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND TX 77478

COPY MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Alejandro Pena et al. :
Application No.11/773,021 : ON PETITION
Filed: September 17, 2007 :
Attorney Docket No. 56.0833DIV :

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of September 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: David Cate
555 Industrial Drive, MD-21
Sugar Land, TX 77478

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Shih-Chung Lee	: DECISION ON REQUEST FOR
Patent Number	: 7599224	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,035	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2007	: 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.

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.
11/773,069	07/03/2007	Maki HAMAGUCHI	311497US3	1671

7590 06/25/2009

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

EXAMINER	
ROBINSON, DANIEL LEON	

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
06/25/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 06/24/2009 BPOWELL
07705/2007 INTEFSW 00000044 11773069
02 FC:1111 -500.00 OP

Adjustment date: 06/24/2009 BPOWELL
07705/2007 INTEFSW 00000044 11773069
02 FC:1111 -500.00 OP

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.
11/773,070	07/03/2007	Tatsuya MIYAGI	035206-0361807	1672

7590 11/18/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
VAN HANDEL, MICHAEL P	

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
11/18/2009	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: 11/19/2009 NFARMER
07/03/2007 INTEFSW 00000035 033975 11773070
02 FC:1111 500.00 CR

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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.
11/773,103	07/03/2007	Maki HAMAGUCHI	311567US3	1732

EXAMINER

7590 06/04/2009

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

ART UNIT	PAPER NUMBER
3749	

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 0030070806

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1002

Adjustment date: 06/04/2009 NFARMER
07/05/2007 INTEFSW 00000381 11773103
02 FC:1111 -500.00 OP

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Kelly, et al. :
Application No. 11/773,106 : DECISION ON PETITION
Filed: July 3, 2007 :
Attorney Docket No. 2605-1-046N1DIV :

This is a decision on the petition under 37 CFR 1.137(b) filed March 13, 2009 in the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned September 19, 2008 for failure to timely submit a proper reply to the non-final Office action mailed June 18, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was submitted. Notice of Abandonment was mailed March 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) a proper statement of unintentional delay.

As to requirement (2), petitioner submitted a fee in the amount of $280.00. The current small entity petition to revive fee is $810.00. Thus, the remaining fee due, $530.00, has been charged to petitioner's deposit account, as authorized by the fee transmittal contained in the record.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/381,374.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
US BANK CENTER
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101-4010

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JUL 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Amir M. Matityahu	:	
Application No. 11/773,134	:	DECISION ON PETITION
Filed: July 3, 2007	:	TO WITHDRAW
Attorney Docket No. 188305/US/2 (477719-14)	:	FROM RECORD
	:	

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 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dorsey & Whitney, LLP has been revoked by the assignee of the patent application on June 2, 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: SYNTHES USA, LLC.
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Lockheed Martin c/o
DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

Mail Date: 04/20/2010

Applicant	: Randy L. Gaigler	: DECISION ON REQUEST FOR
Patent Number	: 7647857	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,146	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **308** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/773,166	07/03/2007	Sung-geun JOO	0085.1031	1854

7590 01/20/2009

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER	
LEE, THOMAS C	

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
01/20/2009	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

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Adjustment date: 01/21/2009  BPOWELL
07/03/2007 INTEFSW  00000892 11773166
02 FC:1111                    -500.00 OP
04 FC:1202                    -500.00 OP
05 FC:1201                    -200.00 OP
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Refund Ref:
01/21/2009          0030065734
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Credit Card Refund Total:    $1900.00

Am Exp..: XXXXXXXXXXX1007
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Adjustment date: 01/21/2009 BPOWELL
07705/2007 INTEFSW 00000892 11773166
02 FC:1111 -500.00 OP
04 FC:1202 -500.00 OP
05 FC:1201 -200.00 OP

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PATRICIA A. SWEENEY
1835 PLEASANT ST.
WEST DES MOINES, IA 50265

Mail Date: 04/21/2010

Applicant	: Luis Fabricio Medina-Bolivar	: DECISION ON REQUEST FOR
Patent Number	: 7666677	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **4** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OCT 26 2007

OFFICE OF PETITIONS

Applicant: Rosenberg et al. :
Application No. 11/773,185 : Decision On
Filed: July 3, 2007 : Petition
For: Solid Pharmaceutical Dosage Form :

This is a decision in response to the petition entitled "Request to Stop Pre-Grant Publication" received on October 10, 2007, for the above identified application.

Applicant's request cannot be granted.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also provides that each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from **the earliest filing date for which a benefit is sought under this title**.

The application is scheduled for publication on October 25, 2007.

The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). There is no record of payment in the Office records for the petition received on October 10, 2007. The request is dismissed for failure to pay the required fee under 37 CFR 1.17(f) (currently $400).

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

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

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OFFICE OF PETITIONS

In re Application of	:	
David Y. Pui et al.	:	
Application No. 11/773,197	:	DECISION DISMISSING PETITION
Filed: July 3, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10559-932003/P18721C2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/814,883, filed March 31, 2004.

The petition is **DISMISSED**.

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

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

In regard to the required reference of item (1), the amendment to the specification filed December 18, 2007 is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In particular, the referenced application number does not have an inventor in common with the present application.

37 CFR 1.78(a)(1) states in pertinent part:

> In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112.

Here, the transmittal letter for present application no. 11/773,197 lists Kevin J. Orvek, David Y. Pui, Yi Liu, Christof Asbach and Heinz Fissan as the applicants. However, the first executed declaration, filed December 18, 2007, forms the inventorship of this application and names only David Y. Pui, Yi Liu, Christof Asbach and Heinz Fissan as the inventors while omitting Kevin J, Orvek. The Declaration filed March 31, 2004 for referenced application number 10/814,883 names Kevin J. Orvek as the sole inventor. Although a request to change the inventorship under 37 CFR 1.48 was filed May 30, 2007 in application number 10/814,883, this case was expressly abandoned on July 5, 2007 before the request under 37 CFR 1.48 was considered or granted. Kevin J. Orvek remains the only recognized inventor of application number 10/814,883.

Since the referenced application does not have an inventor in common with the present application, application number 11/773,197 cannot claim priority to application number 10/814,883. Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Furthermore, in regard to the statement of delay, the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

By mail:
Mail Stop PETITIONS
Commissioner for Patents
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[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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 Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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APR 23 2009

OFFICE OF PETITIONS

In re Application of :
David Y. Pui et al. :
Application No. 11/773,197 : DECISION ON PETITION
Filed: July 3, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10559-932003/P18721C2 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/814,883, filed March 31, 2004.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed. The request to correct inventorship under 37 CFR 1.48(a) in Application No. 10/814,883 was 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 application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

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

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

Any inquiries concerning this decision may be directed to Christopher Bottorff at (571) 272-6692. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of the assigned Technology Center Art Unit will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucei
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/773,197	07/03/2007	2857	1370	U11.12-0195	29	4

CONFIRMATION NO. 1913

CORRECTED FILING RECEIPT

27367
WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Date Mailed: 04/23/2009

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

Applicant(s)

David Y. Pui, Plymouth, MN;
Yi Liu, Minneapolis, MN;
Christof Asbach, Oberhausen, GERMANY;
Heinz Fissan, Kerken-Aledekerk, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 27367

Domestic Priority data as claimed by applicant

This application is a CON of 10/814,883 03/31/2004 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/773,197**

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

Non-Publication Request: No

Early Publication Request: No

Title

REAL-TIME MONITORING OF PARTICLES IN SEMICONDUCTOR VACUUM ENVIRONMENT

Preliminary Class

702

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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900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS, MN 55402-3244

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AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Jason S. GOLDBERG, et al. :
Application No. 11/773,213 : DECISION GRANTING PETITION
Filed: July 3, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S01.12-1192/STL 14087.00** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 21, 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 July 21, 2009 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2627 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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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Jason Seth Goldberg	: DECISION ON REQUEST FOR
Patent Number	: 7667912	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

R.R (PRINCETON)
56 MALDENHEAD ROAD
PRINCETON, NJ 08540

In re Application of :
Shant Hovnanian et al :
Application No. 11/773,226 : DECISION ON PETITION
Filed: July 3, 2007 : TO WITHDRAW
Attorney Docket No. AdChooser CIP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 13, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Richard C. Woodbridge 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 Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Richard C. Woodbridge
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543

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MAY 02 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

IBM ENDICOTT (ANTHONY ENGLAND)
LAW OFFICE OF ANTHONY ENGLAND
PO Box 5307
AUSTIN TX 78763-5307

In re Application of
ICHIKAWA, OSAMU, et al.
Application No. 11/773,256
Filed: July 3, 2007
Attorney Docket No. JP920060058US1

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 April 18, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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COMMISSIONER FOR PATENTS
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DIW Nov-07

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

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NOV 26 2007
OFFICE OF PETITIONS

In re Application of	:	
Huang, Duncan, and Abate	:	DECISION REFUSING STATUS
Application Number: 11/773278	:	UNDER 37 CFR 1.47(a)
Filing Date: 07/03/2007	:	
Attorney Docket Number:	:	
P053509-07CONT	:	

This is in response to the petition under 37 CFR 1.47(a) filed on October 23, 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 July 3, 2007, without an executed oath or declaration. Accordingly, on July 23, 2007, the Office of Patent Application Processing 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 October 23, 2007, a petition under 37 CFR 1.47(a) was filed, along with a declaration naming Halbin Huang, Craig Duncan, and Kenneth Abate as joint inventors signed by joint inventor Huang on behalf of himself and non-signing joint inventors Duncan and Abate, and the required surcharge.

Petitioners assert that non-signing inventors Duncan and Abate have refused 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 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 (1).

With regard to item (1), petitioners have not established that joint inventor Abate has refused to sign the declaration. Specifically, petitioners have provided a statement of facts signed by counsel's paralegal, Eileen Cassie, in which she states that she received a voice mail from joint inventor Abate in which he stated that he would not be able to sign the declaration by the requested date of October 22, 2007, but "that [Ms. Cassie] might expect an answer from him." As such, a question is raised as to whether the inventor returned a signed declaration subsequent to the filing of the subject petition

Petitioners should explain, in any renewed petition, whether Abate did or did not return the signed declaration.

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

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

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building

401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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-08

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:
Huang, Duncan, and Abate	: DECISION ACCORDING STATUS
Application Number: 11/773278	: UNDER 37 CFR 1.47(a)
Filing Date: 07/03/2007	:
Attorney Docket Number:	:
P053509-07CONT	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on January 10, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Craig Duncan and Kenneth Abate, have 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 to the last known address for each non-signing inventor. The non-signing inventors failed, however, to sign and return the declaration naming them as a joint inventors along with Haibin Huang.

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, not 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
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Craig B. Duncan
7414 Wiskfern Road
Trinity FL 34655

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of
Huang et al.
Application No. 11/773,278
Filed: July 3, 2007
For: ENERGY EFFICIENT INSULATED GLASS UNIT

Dear Mr. Duncan:

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

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
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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

Kenneth Abate
152 Stickle Road
Beaver Falls PA 15010

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of
Huang et al.
Application No. 11/773,278
Filed: July 3, 2007
For: ENERGY EFFICIENT INSULATED GLASS UNIT

Dear Mr. Abate:

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

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
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P.O. Box 1450
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George Bardmesser
BARDMESSER LAW GROUP, P.C.
910 17TH STREET, N.W.
SUITE 800
WASHINGTON DC 20006

MAILED

JUL 31 2007

Technology Center 2100

In re Application of:
Eugene Kapersky, ET AL.
Serial No.: 11/773283
Filed: July 03, 2007
Docket: 2402.0150000
Title: **CONSTRAINT-BASED AND ATTRIBUTE-BASED SECURITY SYSTEM FOR CONTROLLING SOFTWARE COMPONENT INTERACTION**

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 3, 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, II 1-5.1, II 5.4-6.1 and II 6.4-6.6 above are considered to have been met. However, the petition fails to comply with conditions II 5.2 –5.3 & 6.2-6.3 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] and items 5, 5.2 & 5.3 above, the pre-exam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the claims. Based upon the claimed inter process and inter communications subject matter of the instant application, a search in the following [redacted] subclass is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: 719/313. In addition, based on the claimed subject matter, the following concepts need to be added to the previously submitted text search logic for both patent and non-patent databases:

TS 7-25-07

(Life stage)
((Subsequent or second) life stage)
(That life stages includes design, development, sale installation, administration and use)

This additional search area and search logic was confirmed with (and recommended by) a Primary examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I)(2) and item 6.2 above, Petitioner has provided a discussion of each of the identified references, identifying subject matter by way of figure, page, column and line numbers, as appropriate, as they pertain to ALL of the claim limitations of the instant application in section 9(b) of the examination support document and this would be proper however section 9(c) of the support document then contradicts section 9(b) by stating that all of the claim features are not found.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Petitioner does not specifically point out the particular language of the claims that distinguishes as after mapping all of the claim features in section 9(b) of the support document there is a general allegation that fails to comply with 1.111 that all of the identified references fail to teach or suggest security system and method for controlling interactions between the software components as required by claims 1, 13, and 19. How are the mappings of section 9(b) wrong as they state that all of the claim language is taught by each of the three references? The petition also fails to provide a statement stating how the dependent claims are patentable. For these reasons, the petition does not meet the requirement of MPEP § 708.02(a).

[1] 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 Tod Swann, Quality Assurance Specialist, at (571) 272-3612.

Tod Swann, Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Technology Center 2100

George Bardmesser
BARDMESSER LAW GROUP, P.C.
910 17TH STREET, N.W.
SUITE 800
WASHINGTON DC 20006

In re Application of:
Eugene Kapersky, ET AL.
Serial No.: 11/773283
Filed: July 03, 2007
Docket: 2402.0150000
Title: **CONSTRAINT-BASED AND ATTRIBUTE-BASED SECURITY SYSTEM FOR CONTROLLING SOFTWARE COMPONENT INTERACTION**

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 August 28, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on July 3, 2007 was dismissed in the decision mailed on July 31, 2007.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the renewed 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) as the original identified deficiencies for failing to comply with the requirements for the pre-examination search encompassing all of the features of the claims, and giving the claims the broadest reasonable interpretation, the statement of patentability must provide a detailed explanation of how each of the claims are patentable and the concise statement of the utility must be of the invention as defined in each of the independent claims (reference must be made to independent claims 1, 14 and 20) have been corrected.

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.

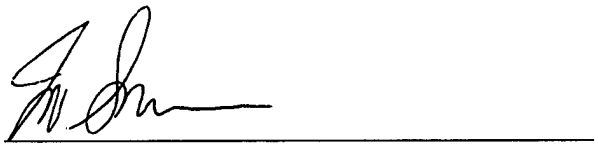
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 Tod Swann, Quality Assurance Specialist, at (571) 272-3612.



Tod Swann, WQAS 2130
Technology Center 2100
Computer Architecture, Software and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUNEAU PARTNERS
P.O. BOX 2516
ALEXANDRIA, VA 22301

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JAN 04 2010

In re Application of	:	
Surendra Saxena	:	
Application No. 11/773,286	:	DECISION ON PETITION
Filed: July 3, 2007	:	
Attorney Docket No. Sax-Hyd-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2009 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 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. Accordingly, the application became abandoned on October 9, 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 declaration, replacement drawings, search fee, examination fee and surcharge, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. 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.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF SCOTT C. HARRIS, INC.
P.O. BOX 1389
RANCHO SANTA FE CA 92067

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of
William Pat PRICE, et al
Application No. 11/773,288
Filed: July 3, 2007
Attorney Docket No. 21731-005001

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 July 3, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Applicant James Sedin birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

The application is being returned to Technology Center Art Unit 2432 for action on the merits commensurate with this decision.

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

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/17/09

Paper No.: —

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/773294 Patent No.: 7494724 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Amendment is merely directed to correcting the omission of the TD, which was properly filed during prosecution. See TD approval form resubmitted on 4/8/2009 by Brian Harden.

/Rena L. Dye/
SPE, Art Unit 1794

SPE

1794

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/773,353	07/03/2007	Jeffrey C. Braman	10070467-03	1216

7590 11/27/2009

AGILENT TECHOLOGIES INC
P.O BOX 7599
BLDG E , LEGAL
LOVELAND, CO 80537-0599

EXAMINER	
MONSHIPOURI, MARYAM	

ART UNIT	PAPER NUMBER
1656	

NOTIFICATION DATE	DELIVERY MODE
11/27/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

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

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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APR 2 7 2009

OFFICE OF PETITIONS

In re Application of
Adrian VUYK JR., et al.
Application No. 11/773,355
Filed: July 03, 2007
Attorney Docket No. **066015.105084**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 2009, to revive the above-identified application.

The petition is **GRANTED**.

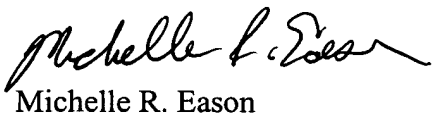
The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 27, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 30, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration; (2) the petition fee of $810.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of July 27, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $805.00 extension of time fee submitted with the petition on March 03, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application is being referred to the Office of Patent Application Processing.



Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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P.O. Box 61389
Houston, TX 77208-1389

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OFFICE OF PETITIONS

In re Application of	:	
Adrian Vuyk, Jr. et al.	:	
Application No. 11/773,355	:	DECISION ON PETITION
Filed: July 3, 2007	:	TO WITHDRAW
Attorney Docket No. 066015.105084	:	FROM RECORD
	:	

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 27, 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 Jeffrey S. Whittle on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Particle Drilling Technologies, Inc.**
5611 Baird Court
Houston, TX 77041

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/773,355	07/03/2007	Adrian Vuyk JR.	066015.105084

CONFIRMATION NO. 1219

POWER OF ATTORNEY NOTICE

35979
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Date Mailed: 09/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/27/2009.

- 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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25 MALL ROAD
SUITE 300
BURLINGTON MA 01803

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Sherman et al
Application No. 11/773,386
Filed: July 3, 2007
Attorney Docket No. P7SHERM001

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice mailed July 24, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The Office is in receipt of the drawings submitted on October 24, 2008, however, the drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d). Additionally, the declaration submitted on October 24, 2008 reference each inventor as the sole or first inventor rather than first , second or third inventor.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

K. GIBNER LEHMANN
346 NEPAS RD.
FAIRFIELD CT 06825-2332

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Yury Sherman :
Application No. 11/773,386 : DECISION ON PETITION
Filed: July 3, 2007 :
Attorney Docket No. P7SHERM001 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a declaration and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed July 24, 2007, 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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DEBORAH A. GADOR
P.O. BOX 4133
GANEL TIKVA 55900 IL ISRAEL

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Oz Barak et al :
Application No. 11/773,452 : DECISION ON PETITION
Filed: July 5, 2007 :
Attorney Docket No. 209/9 :

This is a decision on the petition under 37 CFR 1.182, filed, November 6, 2008, to change the order of the named inventors in the above-identified application.

The petition is **DISMISSED**.

Office record shows the $400 petition fee under 37 CFR 1.182 has not been received. The petition under § 1.182 to amend the order of inventors cannot be granted until the $400 petition 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Brian D. Young	: DECISION ON REQUEST FOR
Patent Number	: 7598772	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/05/2007	: 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.
11/773,514	07/05/2007	THIERRY CHRISTIAN LOISEL	P07037US01 - PHI 1995C	1525

27142 7590 12/10/2008

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER	
KUBELIK, ANNE R	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
12/10/2008	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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Alexandria, VA 22313-1450
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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

DEC 10 2008

In re Application of:
Loisel et al.
Serial No.: 11/773,514
Filed: July 5, 2007
Attorney Docket No.: **P07037US01 - PHI 1995C**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 2, 2008, to expunge information from the above identified application. This application is under non-final rejection.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on November 25, 2008 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.

While the application has not been allowed, it is pointed out that the envelope containing the contents of the request was inadvertently scanned and such was open to the public. As a result of this error, the file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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United States Patent and Trademark Office
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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Ashok V. Krishnamoorthy	: DECISION ON REQUEST FOR
Patent Number	: 7650052	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/05/2007	: 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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AARON M. WILKERSON
P.O. BOX 588
CHINA SPRINGS TX 76633

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OFFICE OF PETITIONS

In re Application of :
Lloyd Alvin ALEXANDER, et al :
Application No. 11/773,537 : DECISION ON PETITION
Filed: July 5, 2007 : TO WITHDRAW
Attorney Docket No. 0019/0001 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 17, 2006.

The request is **NOT APPROVED.**

A review of the file record indicates that Aaron M. Wilkerson does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HAROLD ALEXANDER
2420 WASHINGTON AVENUE
WACO TX 76701

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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.
11/773,596	07/05/2007	Hiroshi NAKANE	311651US2	1664

7590 02/20/2009

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

EXAMINER	
NGUYEN, HOA T	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
02/20/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 02/19/2009 BPOWELL
07/05/2007 INTEFSW 00006113 11773596
02 FC:1111 -500.00 OP

Refund Ref:
02/19/2009 0030066818

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1001

Adjustment date: 02/19/2009 BPOWELL
07705/2007 INTEFSW 00006113 11773596
02 FC:1111 -500.00 OP

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PATENT LAW PROFESSIONALS
P.O. BOX 612407
SAN JOSE, CA 95161

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OFFICE OF PETITIONS

In re Application of :
Paul Cheng-Po LIANG, et al. :
Application No. 11/773,612 : DECISION ON PETITION TO
Filed: July 5, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **56398-0900** :

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 20, 2009.

The request is **DISMISS** as moot.

A review of the file record indicates that the power of attorney to PATENT LAW PROFESSIONALS has been revoked by the assignee of the patent application on March 24, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: **SNELL & WILMER, LLP (PANASONIC)**
600 ANTON BOULEVARD SUITE 1400
COSTA MESA, CA 92626

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AUG 02 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS, MN 55402

In re Application of:
Michael J. GEILE et al
Serial No.: 11/773,643
Filed: July 05, 2007

Title: **SCANNING BY REMOTES 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 05, 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, 525, and 527; 375/230, 231, 232, and 236.

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 dependent claims 2-6, 8-11, and 13-16, it is presumed that petitioner believes that all claims not separately argued for patentability 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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

MAIL

SEP 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Michael J. Geile et al,
Serial No.: 11/773,643
Filed: July 5, 2007

Title: **SCANNING BY REMOTES 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 August 24, 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 August 2, 2007 have been met.

It should be noted that no separate reasons for patentability have been argued in regard to dependent claims 2-6, 8-11, and 13-16. 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 Michael Horabik, Special Program Examiner, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT LAW PROFESSIONALS
P.O. BOX 612407
SAN JOSE, CA 95161

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
MCCUNE JR., Earl W. et al. :
Application No. 11/773,650 : DECISION ON PETITION
Filed: July 05, 2007 : TO WITHDRAW
Attorney Docket No. **56398-1000** : FROM RECORD
:

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 20, 2009.

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

A review of the file record indicates that the power of attorney to Patent Law Professionals has been revoked by the assignee of the patent application on March 24, 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: **SNELL & WILMER L.L.P. (Panasonic)**
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Elgue, Chopard, Cabassud, Cognet, Prat, Gourdon :
Application No. 11/773,667 : DECISION REFUSING STATUS
Filed: July 5, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 046190/330490 :
For: OPTIMIZING A CHEMICAL REACTION IN A PLATE-TYPE OPEN REACTOR

This is a decision on the petition under 37 CFR 1.47(a) filed December 19, 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 July 5, 2007 and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on July 25, 2007, requiring a proper oath or declaration and allowing an extendable period for reply of two months from its mailing date. The instant petition was filed on December 19, 2007, with a request for an extension of time within the third month.

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

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

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

(3) the petition fee,

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

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

As to item (2), Section 409.03 of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602 § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning inventor as required by 37 CFR 1.64. An oath or declaration signed by all of the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

The declaration filed on December 19, 2007, is defective because it does not contain a blank signature block for inventor Chopard. Without this signature block, the available joint inventors cannot be said to have executed the declaration on their own behalf and on behalf of inventor Chopard. The assignee should not execute the declaration unless there are no joint inventors willing, or available, to sign the declaration. A proper declaration, preferably one that is formatted according to MPEP § 409.03 cited above, must accompany any renewed petition filed.

It is also noted that declaration filed December 19, 2007, contains and uninitiated and undated cross-out in inventor Elgue's signature block. Petitioner is advised that the examiner assigned to the application may object to the declaration because of this. Petitioner may wish to correct this during the preliminary phases of the application's prosecution.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

In re Application of :
Elgue, Chopard, Cabssud, Cognet, Prat, Gourdon :
Application No.: 11/773,667 : DECISION ACCORDING
Filed: July 5, 2007 : RULE 47 STATUS
Attorney Docket No. 046190/330490
Invention: **OPTIMZING A CHEMICAL REACTION IN A PLATE-TYPE OPEN REACTOR**

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 28, 2008.

The renewed petition is **GRANTED**.

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

The above-cited application was filed on July 5, 2007, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on July 25, 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. A petition under 37 CFR 1.47(a) was first filed on December 19, 2007, and dismissed by a decision mailed January 4, 2008.

Petitioner has shown that inventor Chopard 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
P.O. Box 1450
Alexandria, VA 22313-1450
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GROSSMAN, TUCKER, PERREAULT
& PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Hyon-Jong CHO	:	
Application No. 11/773,669	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. JWI108D1	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Grossman, Tucker, Perreault & Pfleger, PLLC, has been revoked by the assignee of the patent application on April 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HYON-JONG CHO
274# IMSU-DONG, GUMI-SI
GYEONGSANGBUK-DO
REPUBLIC OF KOREA

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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Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

7/23/08

In re Application of
Koji Aoyama et al.
Application No. 11/773,685
Filed: Jul. 5, 2007
Attorney Docket No. P31569
For: Online Video Game Control Server and A Method of Controlling and Online Video Game

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 Jul. 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

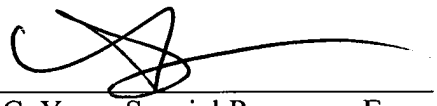
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to Xuan Thai, SPE of Art Unit 3714.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.



Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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& PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Hyon-Jong CHO	:	
Application No. 11/773,727	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. JWI12DIV1	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Grossman, Tucker, Perreault & Pfleger, PLLC, has been revoked by the assignee of the patent application on May 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HYON-JONG CHO
274# IMSU-DONG, GUMI-SI
GYEONGSANGBUK-DO
REPUBLIC OF KOREA

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
11/773,727	07/05/2007	Hyon-Jong Cho	JWI112DIV1

CONFIRMATION NO. 1876

POA ACCEPTANCE LETTER

58986
THE RAFFERTY PATENT LAW FIRM
1952 Gallows Road
Suite 200
Vienna, VA 22182-3823

OC000000036395684

Date Mailed: 06/10/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/773,727	07/05/2007	Hyon-Jong Cho	JWI112DIV1

CONFIRMATION NO. 1876

POWER OF ATTORNEY NOTICE

32047
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

OC000000036395675

Date Mailed: 06/10/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

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

/dcgoodwyn/

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

In re Application of	:	
John W. Morris, David A.	:	
Knaack, Lawrence A. Shimp,	:	
Keyvan Benham, Robert P.	:	
Skinner, and Randal R. Betz	:	
Application No. 11/773,775	:	DECISION ON PETITION
Filed: July 5, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.47(A)
34507/US/3	:	
Title: HEMOSTATIC BONE GRAFT	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a)[1], filed November 26, 2007.

---

1 A grantable petition under 37 C.F.R. § 1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130, if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that either:
a) a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application, or
b) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful, and;

This petition pursuant to Rule § 1.47(a) is **DISMISSED**.

On July 5, 2007, the application was filed, identifying John W. Morris, David A. Knaack, Lawrence A. Shimp, Keyvan Benham, Robert P. Skinner, and Randal R. Betz as joint inventors. The application was deposited without an executed declaration. On July 25, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the present petition, Petitioner has included, *inter alia*, a declaration that has been signed by each of the inventors save Mr. Morris, the fee that is associated with the late submission of the same, a portion of the petition fee[2], and a two-month extension of time so as to make timely this response[3].

Petitioner has met requirements (1) - (3) and (5) of Rule § 1.47(a).

Regarding the fourth requirement of Rule § 1.47(a), **it does not appear that a complete copy of the application was sent to the last-known address of the non-signing inventor**. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration[4].

Since no mention has been made of any presentation of the application to the non-signing inventor in either the petition or the two letters that were sent to him, the fourth requirement has not been met.

Before filing the renewed petition, Petitioner should mail a complete copy of the application to the non-signing inventor, and provide him with a reasonable period of time to respond.

---

(5) a declaration which complies with 37 C.F.R. § 1.63.

2 Petitioner has submitted $130 towards the $200 petition fee. The remainder of the petition fee will be charged to Petitioner's Deposit Account, in due course.

3 A three-month extension of time is required, as the notice was mailed on July 25, 2007, and this petition was not filed until November 26, 2007. A three-month extension of time will be charged to Petitioner's Deposit Account, in due course.

4 See M.P.E.P. § 409.03(d).

Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

It follows that since it has not been shown that a complete copy of the application was sent to the non-signing inventor, one cannot refuse to sign something which one has not seen. 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. It is reasonable to require that the inventor be presented with the application papers before a petition under Rule § 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[5].

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C. § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[6], hand-delivery[7], or facsimile[8]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[9].

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.

---

5 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[10].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

COPY MAILED

AUG 11 2008

OFFICE OF PETITIONS

In re Application of	:	
John W. Morris, David A.	:	
Knaack, Lawrence A. Shimp,	:	
Keyvan Benham, Robert P.	:	DECISION NOTING JOINDER AND
Skinner, and Randal R. Betz	:	DISMISSING RENEWED PETITION
Application No. 11/773,775	:	PURSUANT TO 37 C.F.R.
Filed: July 5, 2007	:	§ 1.47(A) AS MOOT
Attorney Docket Number:	:	
34507/US/3	:	
Title: HEMOSTATIC BONE GRAFT	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed July 14, 2008.

On July 5, 2007, the application was filed, identifying John W. Morris, David A. Knaack, Lawrence A. Shimp, Keyvan Benham, Robert P. Skinner, and Randal R. Betz as joint inventors. The application was deposited without an executed declaration. On July 25, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
    b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. §1.63.

An original petition was filed on November 26, 2007, which was dismissed via the mailing of a decision on March 13, 2008 for failure to establish that a complete copy of the application had been sent to the non-signing inventor.

With this renewed petition, Petitioner has included an acceptable declaration that has been executed by formerly non-signing joint inventor Morris.

As such, this renewed petition is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further consideration under 37 C.F.R. § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(a).

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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Alexandria, VA 22313-1450
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DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION
CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

In re Application of	:	
DZIEKAN, LEE M. et al.	:	AUG 24 2009
Application No.: 11/773,781	:	DECISION ON
Filing or 371(c) Date: 07/05/07	:	PETITION
Attorney Docket Number: 707391US1	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed August 17, 2009.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed April 1, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

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MAR 03 2008

In re Application of	:	
Eran STEINBERG, et al	:	
Application No. 11/773,815	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. FN-102D-DIV-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP, has been revoked by the assignee of the patent application on November 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: FOTONATION
IP DEPT
800 AIRPORT BLVD.
SUITE 522
BURLINGGAME, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

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PARK LAW FIRM
3255 WILSHIRE BLVD
SUITE 1110
LOS ANGELES CA 90010

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Chun Il Koh :
Application No. 11/773,828 : DECISION ON PETITION
Filed: July 5, 2007 :
Attorney Docket No. 2360.02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before March 3, 2010, as required by the Notice of Allowability mailed December 3, 2009. Accordingly, the date of abandonment of this application is March 4, 2010. A Notice of Abandonment was mailed March 18, 2010.

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 $810.00; 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 May 11, 2010.

Joan Olszewski
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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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Agroskin and Grimes	:	DECISION ACCORDING STATUS
Application No. 11/773,839	:	UNDER 37 CFR 1.47(a)
Filed: 07/05/2007	:	
Atty Docket No. 026693-019210US	:	
Title: MASS SPECTROMETRY PROBES	:	
HAVING HYDROPHOBIC COATIINGS	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 28, 2008. Petitioners obtained an extension of time for response within the fifth month. Accordingly, the petition is filed timely.

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

Petitioners showed that the non-signing inventor constructively refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to the Office of Patent Application Processing.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Michael Grimes
1154 Garfield Avenue
San Jose, CA 95125

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Agroskin and Grimes :
Application No. 11/773,839 : LETTER
Filed: 07/05/2007 :
Atty Docket No. 026693-019210US :
Title: MASS SPECTROMETRY PROBES :
HAVING HYDROPHOBIC COATIINGS :

Dear Mr. Grimes:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7693311	: RECALCULATION of PATENT
Issue Date	: 04/06/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/773,855	: OF WYETH
Filed	: 07/05/2007	:
		:

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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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

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NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of :
HEMINK, et al. :
Application No. 11/773,927 : DECISION GRANTING PETITION
Filed: July 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAND-01178US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on September 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2824 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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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Panec et al.	:	
Application Number: 11/773931	:	DECISION ON PETITION
Filing or 371(c) Date: 07/05/2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket Number: ODVFP004C1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on July 5, 2007, and has conpendency with intermediate Application No. 10/728,356, filed on December 3, 2003, and which issued as U.S. Patent No. 7,249,195, on July 24, 2007, which has copendency with intermediate Application No. 09/820,966, filed on March 30, 2001, and which claims the benefit of prior-filed provisional Application No. 60/278,440 filed on March 26, 2001. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment filed with the petition is not acceptable because it does not properly state the relationship between prior-filed nonprovisional Application Nos. 10/728,356 and 09/820,966, the latter of which claims benefit of the provisional application.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

In this regard, it is noted that the amendment to the specification filed with the present petition states that "This application claims priority and is a continuation of U.S. Application No. 10/728,356, filed 3 December 2003 by Peter A. Panec et al., now U.S. Patent No. 7,249,195 issued 24 July 2007, which application claims priority of U.S. Application 09/820,966, filed 30 March 2001 by Lev Brouk et al, which application claims priority to U.S. Provisional Application No. 60/278,440 filed March 26, 2001." This benefit claim is defective with respect to the relationship between Applications No. 10/728,356 and 09/820,966. The benefit claim must state the relationship (*e.g.*, continuation, divisional, or continuation-in-part) between the international application and the prior-filed nonprovisional applications.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) correcting the relationship between the above-noted prior-filed nonprovisional applications, are required.

As authorized, the $1,410.00 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No. 50-4480.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Panec et al.	:	
Application Number: 11/773931	:	DECISION ON PETITION
Filing or 371(c) Date: 07/05/2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket Number: ODVFP004C1	:	

This is a decision on the "RENEWAL OF PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR THE BENEFIT OF A PRIOR-FILED APPLICATION 37 CFR § 1.78(a)(5)," filed on November 12, 2009, which is treated as a renewed petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is again **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on July 5, 2007, and has conpendency with intermediate Application No. 10/728,356, filed on December 3, 2003, and which issued as U.S. Patent No. 7,249,195, on July 24, 2007, which has copendency with intermediate Application No. 09/820,966, filed on March 30, 2001, which claims the benefit of prior-filed provisional Application No. 60/278,440 filed on March 26, 2001. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

Upon further review, it is noted that intermediate Application No. 10/728,356, filed on December 3, 2003, and which issued as U.S. Patent No. 7,249,195 on July 24, 2007, failed to claim benefit under 35 U.S.C. § 119(e) of prior-filed provisional Application No. 60/278,440, filed on March 26, 2001.

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 201.06(d).

Accordingly, a petition under 37 CFR 1.78(a)(6) would need to be filed in Application No. 10/728,356 to request acceptance of the delayed claim of benefit to provisional Application No. 60/278,440, before the present petition under 37 CFR 1.78(a)(6) requesting acceptance of a delayed claim of priority to the prior-filed provisional application can be granted in the subject application, which is a continuation of Application No. 10/728,356.

However, 37 CFR 1.78(a)(6) requires that the claim under 35 U.S.C.§ 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application. As Application No. 10/728,356 issued as U.S. Patent No. 7,249,195 on July 24, 2007, the application is no longer pending and cannot be revived.

As noted in MPEP 1402, the courts have not addressed the question of correction of the failure to adequately claim benefit under 35 U.S.C. 119(e) in the application (which became the patent to be reissued) via reissue. Where the application, which became the patent to be reissued, was filed on or after November 29, 2000, reissue may be employed to correct an applicant's mistake by adding or correcting a benefit claim under 35 U.S.C. § 119(e). A petition under 37 CFR 1.78(a)(6) for an unintentionally delayed claim under 35 U.S.C. § 119(e) would not be required in addition to filing a reissue application.

Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. § 119(e)(1) to state that:

> No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section during the pendency of the application.

See Fontijn v. Okamoto, 518 F.2d 610, 622, 186 USPQ 97, 106 (CCPA 1975) ("a patent may be reissued for the purpose of establishing a claim to priority which was not asserted, or which was not perfected during the prosecution of the original application").The court in Fontijn held that 35 U.S.C. 251 was sufficiently broad to correct a patent where the applicant failed to assert or failed to perfect a claim for foreign priority during the prosecution of the original application even though 35 U.S.C. 119(b) at that time required a claim and a certified copy of the foreign application to be filed before the patent is granted. **Similarly, the Office may grant a reissue for adding or correcting a benefit claim under 35 U.S.C. 119(e) that requires the benefit claim to a provisional application be submitted during the pendency of the application.**

Accordingly, the petition under 37 CFR 1.78(a)(6) must be again dismissed.

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

Correspondence may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 06 2009

OFFICE OF PETITIONS

INFINERA CORPORATION
ROSS CAROTHERS
1322 BORDEAUX DRIVE
SUNNYVALE, CA 94089

In re Application of
David F. Welch, et al.
Application No. 11/773,960
Filed: July 6, 2007
Attorney Docket No. P001.D6

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 14, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 13, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 14, 2009. On August 14, 2009 the present petition was filed. A Notice of Abandonment was subsequently mailed on June 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 2 0 2008

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

In re Application of	:
Svend Havelund	: DECISION ON PETITION
Application No. 11/774,027	: UNDER 37 CFR 1.78(a)(3)
Filed: July 6, 2007	:
Attorney Docket No. 5220.250-US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet (ADS) 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 applicable to applications filed on or after November 29, 2000 and is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Further, a 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 petition does not comply with item (1) above. In this regard, petitioner submitted an Application Data Sheet (ADS) which is not signed in accordance with 37 CFR 1.33 and 10.18. See also 37 CFR 1.4(d) for the form of the signature. It is further noted that an amendment was simultaneously filed; however the amendment completely deletes every reference to priority to all the prior applications.

Before the petition can be granted, petitioner must submit a properly signed ADS or an amendment to the first sentence of the specification following the title to include a proper reference under 37 CFR 1.78(a)(2)(i), along with a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 11 2009

OFFICE OF PETITIONS

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

In re Application of :
Svend Havelund :
Application No. 11/774,027 : DECISION ON PETITION
Filed: July 6, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5220.250-US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 7, 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 Application Data Sheet (ADS) filed with the petition.

The petition is **GRANTED**.

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

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

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) 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) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1654 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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
11/774,027	07/06/2007	1654	1000	5220.250-US	6	1

CONFIRMATION NO. 2455

CORRECTED FILING RECEIPT

23650
NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

OC000000037645516

Date Mailed: 09/03/2009

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

Applicant(s)

Svend Havelund, Bagsvaerd, DENMARK;

Assignment For Published Patent Application

Novo Nordisk A/S, Bagsvaerd, DENMARK

Power of Attorney:

Steve Zelson--30335
Alan Kirsch--33720
Cheryl Agris--34086
Valeta Gregg-Emery--35127
Carol Rozek--36993
Robert Starnes--41324

Domestic Priority data as claimed by applicant

This application is a CON of 11/337,855 01/23/2006 ABN
and is a CON of 10/978,110 10/29/2004 ABN
which is a CON of 10/152,535 05/20/2002 PAT 6,818,738
which is a CON of 09/836,496 04/17/2001 ABN
which is a CON of 09/045,038 03/20/1998 PAT 6,310,038
which claims benefit of 60/041,390 03/27/1997

Foreign Applications

DENMARK 0317/97 03/20/1997

If Required, Foreign Filing License Granted: 07/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/774,027**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Pulmonary Insulin Crystals

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).

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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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

COPY MAILED

JAN 04 2010

In re Application of	:	
Barnes et al.	:	DECISION ON PETITION
Application No. 11/774,089	:	TO WITHDRAW
Filed: July 6, 2007	:	FROM RECORD
Attorney Docket No. 275/302	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 2, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on November 2, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, 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(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.

Petitioner has not complied with the above certifications. Petitioner contends that "the applicant instructed former attorneys of this firm to take their file to a new firm, there by discharging this firm". This instruction by applicant did not discharge petitioner from their responsibility.

Additionally, 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) 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 an outstanding Office action mailed September 15, 2009 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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FEB 03 2010

In re Application of	:	
Barnes et al.	:	DECISION ON PETITION
Application No. 11/774,089	:	TO WITHDRAW
Filed: July 6, 2007	:	FROM RECORD
Attorney Docket No. 275/302	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 12, 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.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) 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 an outstanding Office action mailed September 15, 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

DATE 1/3/08

APPLICATION NUMBER 11/774,106

COPY MAILED

DOC CODE Pet Dec OPAP

DOC DATE JAN 03 2008

OFFICE OF PETITIONS

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY MO 64108

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of
Dan O'Bryan et al.
Application No. 11/774,106
Filed: July 6, 2007
Attorney Docket No. 449960

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

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

The petition is **GRANTED**.

The above-identified application was filed on July 6, 2007 without a signed declaration. Accordingly, on July 24, 2007, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, a declaration of facts in support of filing on behalf of omitted/unavailable inventor (37 CFR § 1.47(a)) was filed with a declaration signed by all joint inventors except joint inventor Edward Gilmour and a three month extension of time. The petition argues that joint inventor Gilmour can't be located after diligent effort.

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

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

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

(3) the petition fee; and

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

At the outset while petitioners argue that the non-signing inventor could not be located, the evidence presented is proof that correspondence regarding the above identified application and the subject of this petition were mailed to and delivered to the last known address. In the absence of the correspondence being returned or not delivered it can be construed that the non-signing inventor received the correspondence and thus locating him is not an issue. Instead, the petition is being construed to say that the non-signing inventor refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

The petition bears proof that the application papers were sent to Mr. Gilmour but that to date he has not returned an executed oath or declaration. Neither has the non-signing inventor contacted the applicant regarding the oath or declaration or any matters related to the application.

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

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

This matter will be referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GIBBONS, P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas THARALSON, et al	:	
Application No. 11/774,137	:	DECISION ON PETITION
Filed: July 6, 2007	:	TO WITHDRAW
Attorney Docket No. 107447-59465 CON	:	FROM RECORD
	:	

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 27, 2009.

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

A review of the file record indicates that the power of attorney to Gibbons, P.C., has been revoked by the assignee of the patent application on May 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ARMS REACH CONCEPTS, INC.
27162 SEA VISTA DRIVE
MALIBU, CA 90265

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

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

Mail Date: 04/20/2010

Applicant	: Yong Sub Jung	: DECISION ON REQUEST FOR
Patent Number	: 7619573	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

Mail Date: 04/21/2010

Applicant	: Glenn J. Luzzi	: DECISION ON REQUEST FOR
Patent Number	: 7588469	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: 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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
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OFFICE OF PETITIONS

In re Patent No. 7413486	:	
Issue Date: 08/19/2008	:	
Application No. 11/774220	:	DECISION ON PETITION
Filed: 07/06/2007	:	
Attorney Docket No. 34106-513	:	

This is a decision on the petition under 37 CFR 1.55(a)(2), filed October 14, 2008, requesting acceptance of a certified copy of a foreign priority document after issuance of the patent, and, essentially, to insert the foreign priority information in the text of the Letters Patent.

The petition is **DISMISSED**.

Under the rule (37 CFR 1.55), an applicant who wishes to secure the right of priority must comply with certain formal requirements within a specified time. If these requirements are not complied with, the right of priority is lost and cannot thereafter be asserted.

Specifically, the requirements of the rule are (a) that the applicant must file a claim for the right and (b) he or she must also file a certified copy of the original foreign application, and (c) these papers must be filed within a certain time limit. The maximum time limit specified in the rule is that the claim for priority and the priority papers must both be filed before the patent is granted. *See* 37 CFR 1.55(a)(2). If the required papers are not filed within the time limit set, the right of priority is lost. As the record presently discloses that the certified copy of the priority document was not filed in the application either during prosecution or prior to issuance of the application into a patent, the right of priority to the foreign patent application is lost.

With respect to the request to correct the foreign priority information in the text of the Letters Patent, a claim to foreign priority benefits cannot be perfected if the requirements of 35 U.S.C. § 119 and 37 CFR 1.55 have not been satisfied in the patented application or, if applicable, its parent. *See* In re Van Esdonk , 187 USPQ 671 (Comm'r. Pat.1975). As such, the request to insert the foreign priority information in the text of the Letters Patent must also be dismissed as moot. *See* MPEP § 201.16.

However, a reissue was granted in Brenner v. State of Israel, 400 F.2d 789; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 USC § 251. Id. *See* also 65 F.R. 57024 (Sept. 2000) MPEP §§ 201.16, 1402.

The petition fee is not being refunded, since the petition has been considered, notwithstanding the decision. See Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946).

Any questions concerning this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
HIRS, Gene :
Application No. 11/774,234 : DECISION ON PETITION
Filed: July 06, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **HGN-10202/15** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 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 declaration of inventor Gene Hirs, 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.

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

The application is being forwarded to the Technology Center Art Unit 1733 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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FRANK CHAU, ESQ.
F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

In re Application of :
CHARITON, Lawrence :
Application No. 11/774,235 : DECISION ON PETITION
Filed: July 06, 2007 : TO WITHDRAW
Attorney Docket No. **8162-1** : 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 July 28, 2008.

The request is **APPROVED**.

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

The request was signed by Joseph Gross on behalf of all attorneys of record who are associated with customer No. 22150. All attorneys/agents associated with the Customer Number 22150 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below. There is an outstanding Office action mailed June 26, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **LAWRENCE CHARITON**
30 ROCKAWAY PLACE
MASSAPEQUA NY 11758

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TECHNOLOGY CENTER 3600

Malin, Haley and DiMaggio, PA
1936 S. Andrews Avenue
Fort Lauderdale, FL 33316

In re application of
Lief Eric Swanson
Application No. 11/774,247
Filed: July 6, 2007
For: BUILDING SIDING WITH HORIZONTAL PANELS INSTALLED

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

This is a decision on the petition filed on July 6, 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 fails to comply with conditions II.5.1, II.5.2, II.5.3, II.6.1, II.6.2, II.6.3 and II.6.5 above.

As to conditions II.5.1, II.5.2 and II.5.3, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, the petition indicates searches done in U.S. Classification 52, subclasses 276, 282.3, 292.4, 302.1, 519, 520, 522, 524, 528, 656.1, and 730.7. However, subclasses 59, 60, 94-96, 392, 409, 413, 525, 536-542, 544-548, 589.1-592.6, 588.1, 570-572, 553 and 556 of class 52 need to be searched also. Further, a search outside of class 52, for example Class 428, subclasses 82, 140-143 and 906 should also be made. Finally, the database text searches are too narrow in that the term "interlock$" is too narrow. Lock$, interconnect$, connect$, tongue adj groove should be used. 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/.

The USPTO website also 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.

As to condition II.6.1, the IDS submitted with the petition is not in conformance with 37 CFR 1.98 in that copies of the foreign references cited have not been included.

As to conditions II.6.2 and II.6.3, there is not an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. Nor is there a detailed explanation of claim patentability over each of the references. Further, there is no explanation of all the limitations that are disclosed in each reference or an explanation of how each of the claims are patentable over all the cited references with the particularity required under 37 CFR 1.111(b) and (c). Every limitation of every claim must be discussed with respect to every reference cited. 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/.

As to condition II.6.5, every limitation of every claim has not been shown to have support in the specification. Also, the claimed "means for attaching" in claim 1 has not been identified as invoking consideration under 35 USC 112, sixth paragraph.

Assuming 35 USC 112, sixth paragraph in invoked, the structure in the specification that corresponds to the means plus function claimed element has not been identified. Further, a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, for the provisional application 60/828,674 is required.

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 Kenneth J. Dorner, Quality Assurance Specialist at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

Kjd/kjd 8/9/07

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15975 ALTON PARKWAY
IRVINE, CA 92618-3731

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OFFICE OF PETITIONS

In re Application of Horikoshi et al. :
Application No. 11/774,308 : Decision on Petition
Filing Date: July 6, 2007 :
Attorney Docket No. 10035971US01 :

This is in response to the "PETITION UNDER 37 CFR 1.57(a) - INCORPORATION BY REFERENCE" filed August 10, 2007, requesting that the above-referenced application be accorded a filing date of July 6, 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 July 6, 2007. However, on July 27, 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. In response, applicants timely filed this petition. 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 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 § 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

[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.

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 July 6, 2007, with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee has been credited to petitioner's deposit account.

Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to July 6, 2007;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

The "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION" will be treated as an amendment seeking entry of the drawings filed August 10, 2007. Entry of the amendment filed August 10, 2007, will be determined by the examiner.

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

Charles Pearson
Director
Office of Petitions

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 04/20/2010

Applicant	: Brian Donald Hart	: DECISION ON REQUEST FOR
Patent Number	: 7596461	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,362	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: 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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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Peter Schwarz	: DECISION ON REQUEST FOR
Patent Number	: 7633612	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE ADAMS KENNEDY LAW FIRM, LLC
901 RIO GRANDE BLVD. NW
SUITE H262
ALBUQUERQUE, NM 87111

Mail Date: 04/21/2010

Applicant	: LAWRENCE T. CLARK	: DECISION ON REQUEST FOR
Patent Number	: 7622976	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: 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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APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Qi et al.	:	
Application No. 11/774,383	:	DECISION GRANTING PETITION
Filed: July 6, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 555255-012959	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/317,659, filed December 12, 2002, as 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 after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to the Office of Data Management to await a response to the Notice of Allowance mailed January 28, 2009.

/Liana Walsh/
Liana Walsh
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
11/774,383	07/06/2007	2821	1450	555255-012959	29	1

CONFIRMATION NO. 3109

CORRECTED FILING RECEIPT

24325
PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

Date Mailed: 04/27/2009

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)

Yihong Qi, Waterloo, CANADA;
Perry Jarmuszewski, Waterloo, CANADA;
Adam D. Stevenson, Waterloo, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 24325

Domestic Priority data as claimed by applicant

This application is a CON of 10/940,869 09/14/2004 PAT 7,253,775
which is a CON of 10/317,659 12/12/2002 PAT 6,791,500

Foreign Applications

If Required, Foreign Filing License Granted: 07/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/774,383**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ANTENNA WITH NEAR-FIELD RADIATION CONTROL

Preliminary Class

343

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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William Keyworth
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NOV 16 2007

In re Application of: HUTTER et al.
Serial No.: 11/774,398
Filed: July 6, 2007
Title: MASSIVELY MULTIPLAYER EDUCATIONAL ONLINE ROLE PLAYING GAME

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 6, 20007 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 1-5; the "accelerated examination support document" comprising pages 1- 21, 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 434 subclasses 323 and 325. Regarding the text searching listed, it appears petitioner searched the broad concept of the invention rather than the specific claimed limitations as is required by the AE policy. The search must be directed to the *claimed* invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation. This search must include the limitations of the dependent claims. For example, how were the communities of at least claim 2 or the character inventory of at least claims 10 and 11 specifically searched? Common synonyms of claimed elements should be included. For example, the claims recite the step of providing a multiplicity of professions arranged for learner (player) choice. In the gaming art, this may be referred to as "guilds" or similar language designating professions.

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. Petitioner points out some limitations of some of the claims and provides direction to areas of the prior art where the corresponding limitation may be found. Petitioner does not address each limitation and where it is (or state that it is not) found in each closest prior art. Absent such a clear statement, it is not clear whether petitioner has inadvertently omitted discussion of a found limitation, or whether petitioner is of the opinion an equivalent to the limitation is not found in the prior art under discussion. Each claimed limitation should be discussed in view of each piece of listed closest prior art. For example, it is not clear from petitioner's submission why the '625 patent (at least) appears to have the equivalent of limitation "k" when discussing dependent claims 7-8 but does not appear to have any equivalent of limitation "k" in the discussion of claim 1. Petitioner's position with respect to this limitation appears inconsistent. Thus, it is impossible to ascertain with particularity precisely petitioner's position with respect to this claim limitation. The deficiencies outlined herein are not an exhaustive listing of all problems.

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. In the instant petition, the arguments for patentability appear confusing in that the language quoted as distinguishing the independent over the closest prior art appears to have been mapped and equated with respect to the dependent claims in the prior section (limitation k, for example, noted above). Petitioner never explicitly points out that which he feels makes each claim patentable over each of the closest prior art. The showing merely enumerates that which petitioner fees is missing from each piece of prior art. Finally, no discussion provided as to why the claims are not obvious in view of the closest prior art under section 103. Obviousness must also be discussed by petitioner. 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 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 numbers as opposed to the required claim limitations.

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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William Keyworth
Bill & Mary Lou Inc.
101 Lombard Street #510 W
San Francisco, CA 94111

JAN 11 2008

In re Application of: HUTTER et al.
Serial No.: 11/774,398
Filed: July 6, 2007
Title: MASSIVELY MULTIPLAYER EDUCATIONAL ONLINE ROLE PLAYING GAME

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 December 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.

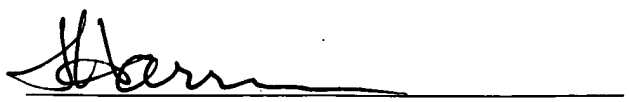
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 J. Harrison, Special Program Examiner, at (571) 272-4449.



J. Harrison, Special Program Examiner
Technology Center 3700

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UNITED STATES DEPARTMENT OF COMMERCE
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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

Mail Date: 04/21/2010

Applicant	: DAVID W. OLD	: DECISION ON REQUEST FOR
Patent Number	: 7605178	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,411	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **76** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAILED

SEP 10 2009

OFFICE OF PETITIONS

In re Application of :
Marios A. Kagarlis, et. al. :
Application No. 11/774,434 :
Filed: July 6, 2007 :
Attorney Docket No. 04754-0019001 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 22, 2009.

The request is **APPROVED**.

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

The request was signed by David L. Feigenbaum on behalf of all attorneys/agents of record who are associated with customer No. 26161.

David L. Feigenbaum and all attorneys/agents associated with the Customer Number 26161 have been withdrawn.

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

All future correspondence will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

This application file is being referred to Technology Center Art Unit 3695 for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Ventana Systems, Inc.
60 Jacob Gates Road
Harvard, MA 01451

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.
11/774,482	07/06/2007	William M. Yates III	Y002 100256	3281

7590 05/07/2010

FELIX L. FISCHER, ATTORNEY AT LAW
1607 MISSION DRIVE
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EXAMINER	
WEAVER, SUE A	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
05/07/2010	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

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

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :

LAWRENCE, Paul J. et al. :
Application No. 11/774,487 : DECISION ON PETITION
Filed: July 06, 2007 : TO WITHDRAW
Attorney Docket No. **015137-001611US** : FROM RECORD

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 08, 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 the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KING & SPALDING**
1000 BRIDGE PARKWAY, SUITE 100
REDWOOD SHORES, CA 94065

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Landon Curt Noll, et al.	:	
Application No. 11/774,521	:	DECISION ON PETITION
Filed: July 6, 2007	:	TO WITHDRAW
Attorney Docket No. 021970-001600US	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on March 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: FISH & RICHARDSON, PC
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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TECHNOLOGY CENTER 2600

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

In re Application of :
KIM, BYOUNG GILL et al :
Application No. 11/774,545 :
Filed: July 06, 2007 :
Attorney Docket No. 2080-3570 :

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 September 25, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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

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TECHNOLOGY CENTER 2600

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

In re Application of
CHOI, IN HWAN, et al.
Application No. 11/774,547
Filed: July 06, 2007
Attorney Docket No. 2080-3567

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 01, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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

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LOS ANGELES CA 90017

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In re Application of	:	
LEE, HYOUNG GON et al.	:	DECISION ON REQUEST TO
Application No. 11/774,553	:	PARTICIPATE IN PATENT
Filed: July 06, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 2080-3569	:	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 November 05, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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OFFICE OF PETITIONS

JOHN K. MCCORMICK
6781 GLACIER DRIVE
WEST BEND, WI 53090

In re Application of :
Robert D. Fite :
Application No. 11/774,560 : DECISION ON PETITION
Filed: July 7, 2007 : TO WITHDRAW
Attorney Docket No. 10084 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioner was not appointed by customer number. In order to withdraw by customer number the petitioner must be appointed by customer number.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT FITE
3179 SPRING DRIVE
BOYNE FALLS, MI 49713

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Daniel Baril
50 Ward Hill Avenue
Haverhill, Massachusetts 01835

In re application of
Daniel Baril
Application No. 11/774,611
Filed: July 8, 2007
For: REMOTE ORDERING SYSTEM

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

This is a decision on the petition filed on July 8, 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.

With respect to II.5.1, the petition indicates that a pre-examination search in compliance with the requirements was conducted. The pre-examination search statement provided in support of the petition indicates that the search of the database service, PatBase, which covers U.S. patents, U.S. patent application publications and foreign patent documents, was conducted on August 8, 2006. The petition was filed on July 12, 2007. The petition does not adequately establish that the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the intervening time period from the August 8, 2006 search date and the July 12, 2007 filing date of the petition.

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 respect to the classification search, in addition to the areas already searched, the search needs to include a U.S. classification search of classes 705/26, 27 (where the invention is classified), which is directed to remote ordering and presentation of images and description of sales items. Further, Google, specifically Google Web and Google Scholar, 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 for US class/subclass 705/26,27 should at least include the databases such as ABI/INFORM, BUSINESS & INDUSTRY, and BUSINESS WIRE, examples of mandatory core databases for subject matter falling into class 705, as a means of yielding relevant search results directly related to remote ordering and presentation of images and descriptions of sales items.

Also with respect to II.5.2, the petition lacks sufficiently specific search logic. While the search logic provided for the PatBase database is directed to certain concepts 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 under section 9(B), that the feature not taught by the identified prior art is "feedback means/mechanism". However, the search logic provided does not include terms such as "feedback" or any appropriate synonyms for a feedback means/mechanism that would allow the specific term of the claimed invention to be discovered in the prior art, such as the terms "feedback or confirm* or notif* or verif*". Moreover, applicant has overly limited the text search using class/subclass in the search as well as restricting the search logic to a very specific field of endeavor, i.e., a restaurant menu, rather than consider analogous art providing listings with selectable input means, for example, prior art dealing with surveys or electronic ballots. When searching in the specific field of endeavor, rather than limit the search to restaurants, applicant should include other eating

establishments such as cafeterias, bars, cafes, diners, etc. Further, the dependent claims add additional features that do not appear in proper search queries, especially since the Support Document asserts that the cited prior art references fail to teach or suggest these limitations. For example, dependent claims 6, 8-9, 10, 14, and 19 include additional features that were not searched such as, for example, in claim 6, descriptions portrayed in a language different from the remaining pages, or, as in claim 8, service buttons, and, in claim 9, the display device including advertisements. There should be search logic provided to encompass the features of these claims, such as the terms "feedback or confirm* or notif* or verify*", "((different or multiple or diverse or prefer*) w/2 language*), etc. The USPTO website has an example of the proper manner of performing and documenting a pre-examination 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 utilizing what appears to be PatBase syntax as set forth by applicant is provided below:

Independent:
("touch panel" or "touch screen" or touchscreen) w/10 (paper or page or sheet) and (feedback or verify or verification or verifying or confirm* or notif*)

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 11.5.2, for the same reasons cited above, the search logic used with respect to the Google database searches is not sufficient 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 applicant states, for example, regarding the prior art reference Redford et al., that with respect to claim 1, Redford et al. ***does not teach*** the limitations. Applicant has set forth an analysis of each claim and the limitations setting forth that the prior art reference ***does not teach*** the limitations rather than stating what the prior art reference actually teaches. It is not sufficiently clear what portions of the claims are admitted as being taught by each of the references although it appears that the Figure citations as well as the line and column citations may indicate what the reference actually teaches while the bracketed and bolded language indicates what is not taught. Each reference must be analyzed to indicate whether or not each limitation of each claim (or portion thereof) is taught by the references.

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 sufficiently establishes that none of the cited references anticipate these independent claims, applicant needs 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. In the current petition, applicant states that "because none of the above references teaches or suggests the subject matter of the independent claims, they cannot alone teach or suggest the subject matter of the dependent claims". However, this does not adequately establish that the claims are separately patentable. Further, applicant states that "dependent claims 6, 8, 12, 14, 19 and 20 are not taught or suggested by the references and have features that would define over the references deemed most closely related if claims 1, 5 or 15 are found unpatentable". However, this does not sufficiently establish how these claims are specifically patentable beyond limitations of independent claims 1, 5, and 15. Moreover, there is not an adequate explanation to sufficiently establish that there is no combination of cited references that teaches the independent claims in a manner that would render the claims and their limitations obvious. Therefore, claim patentability is not sufficiently established for each of claims 1-20 over the cited references.

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 that support the claim as a whole. Listing broadly figures 1-16 does not comply with what is required. In addition, the applicant states that the application claims the benefit of nonprovisional application 11/757,998 which claims priority to provisional application 60/867,740. In reality this application is a continuation-in-part of application 11/757,998. Similar support (if any) for the claimed invention must additionally be shown in the parent application upon which priority is claimed. Moreover, for provisional application 60/867,740, a listing of where the limitations of the claims find support is necessary.

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/JM/10/1/07

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925 EUCLID AVENUE SUITE 700
CLEVELAND OH 44115-1405

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In re Application of :
Salami, et al. : DECISION ACCORDING STATUS
Application No. 11/774,632 : UNDER 37 CFR 1.47(a)
Filed: July 9, 2007 :
Attorney Docket No. FER-16441.003 :

This is in response to the petition under 37 CFR 1.47(a), filed January 25, 2008.

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

Petitioner has demonstrated that inventor Jalal Salami has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to Group Art Unit 1614 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JALAL SALAMI
816 SETTLERS CT
SAN MARCOS CA 92069-1963

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OFFICE OF PETITIONS

LETTER

In re Application of :
Jalal Salami, Srinivasan Sridharan, :
Steve S. Kim, Aziz S. Shaikh :
Application No. 11/774,632 :
Filed: July 9, 2007 :
Title: Solar Cell Contacts Containing :
Aluminum and at Least One of Boron, :
Titanium, Nickel, Tin, Silver, :
Gallium, Zinc, Indium and Copper :

Dear Mr. Salami:

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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NEW HAVEN CT 06510

In re Application of
OSAKA, SHOHEI
Application No.: 11/774,634
Filing or 371(c) Date: July 9, 2007
Attorney Docket Number: 07-416

FEB 17 2010

DECISION ON
PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) May 26, 2009.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed December 22, 2008 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on May 20, 2009.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on March 21, 2009. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status. The Issue Fee has been charged to Form PTO-2038.

Telephone inquiries concerning this matter should 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

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

HAHN LOESER / LINCOLN
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

MAILED

JUL 10 2009

OFFICE OF PETITIONS

Applicants: Bender, et al.
Appl. No.: 11/774,636
Filing Date: July 9, 2007
Title: WELDING WIRE GUIDE RING
Attorney Docket No.: 201990.00143
Pub. No.: US 2009/0014579 A1
Pub. Date: January 15, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 10, 2009, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material errors in claim 13, wherein the temperature range is incorrect..

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON, OH 44311

In re Application of :

AFFOLTER, Allen et al. :
Application No. 11/774,670 : DECISION ON PETITION
Filed: July 09, 2007 : TO WITHDRAW
Attorney Docket No. **21037.44314** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 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 Heather Barnes on behalf of all attorneys of record who are associated with customer No. 26781. All attorneys/agents associated with the Customer Number 26781 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **EMERSON, THOMSON & BENNETT, LLC**
777 W. MARKET STREET
AKRON OH 44303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/774,708	07/09/2007	Hyung-won YOON	102-1425	3764

38209 7590 06/02/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER	
LEE, SUSAN SHUK YIN	

ART UNIT	PAPER NUMBER
2852	

MAIL DATE	DELIVERY MODE
06/02/2009	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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Stanzione & Kim
919 18th St., NW
Suite 440
Washington, DC 20006

In re Application of
Hyung-Won Yoon et al
Application No.: 11/774,708
Filed: 09 July 2007
Attorney Docket No.: 102-1425
For: SLIDE SHUTTER AND TONER SUPPLYING APPARATUS HAVING THE SAME

: DECISION ON REQUEST TO
: PARTICIPATE IN THE 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 11 May 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 (may be utility model applications) filed in the KIPO, or
      (ii) validly claims priority under 119(a)/365(a) 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 under 35 U.S.C. 365(b) to an application (may include a utility model applications) filed in the KIPO, or
      (ii) validly claims priority under 35 U.S.C. 365(b) 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 under 35 U.S.C. 365(b) to an application (may include a utility model application) filed in the KIPO, or

(ii) validly claims priority under 35 U.S.C. 365(b) 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 KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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) and
   c. A statement that the English translation is accurate;
3. Applicant must
   d. 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 KIPO application(s) and
   e. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   f. 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 KIPO 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 KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form;

   Further, if a copy of the documents from i or ii above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS; however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
   g. An English language translation of the KIPO Office action from (5)(a)(i)-(ii) above
   h. A statement that the English translation is accurate;
6. Applicant must submit:
   i. An IDS listing the documents cited by the KIPO examiner in the KIPO office action (unless already submitted in this application)
   j. 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 is assessed as follows:

Conditions 1-7 are considered to have been met. Therefore, the request to participate in the PPH program and petition comply with the requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Darren Schuberg at 571 272-2044.

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.

Darren Schuberg
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 05/21/2010

Applicant	: Hyung-won YOON	: DECISION ON REQUEST FOR
Patent Number	: 7650097	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/774,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **328** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/774,747	07/09/2007	Jin-Seok LEE	0202-0007	3821

7590 01/07/2009

Jefferson IP Law, LLP
1730 M Street, NW
Suite 807
Washington, DC 20036

EXAMINER	
GHAYOUR, MOHAMMAD H	

ART UNIT	PAPER NUMBER
2611	

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.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/07/2009 00030065311

Credit Card Refund Total: $1200.00

Master C: XXXXXXXXXXXX8426

Adjustment date: 01/07/2009 NFARMER
07/09/2007 INTEFSW 00006402 11774747
02 FC:1111 -500.00 OP
04 FC:1202 -500.00 OP
05 FC:1201 -200.00 OP

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LILLING & LILLING PLLC
PO BOX 435
JERUSALEM, ISRAEL 91003

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
VOLOSHIN, Michael et al. :
Application No. 11/774,780 : DECISION ON PETITION
Filed: July 09, 2007 : TO WITHDRAW
Attorney Docket No. **S1141U** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 03, 2008.

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

A review of the file record indicates that the power of attorney to Lilling & Lilling PLLC has been revoked by the assignee of the patent application on December 04, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THE NATH LAW GROUP**
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

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JUL 08 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of
KURATA, GAKUTO, et al.
Application No. 11/774,798
Filed: July 9, 2007
Attorney Docket No. JP920060059US1

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 12, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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DEC 0 7 2009

OFFICE OF PETITIONS

In re Application of :
Binder, et al. :
Application No. 11/774,805 : DECISION
Filed: 9 July, 2007 :
Attorney Docket No. 42462 :

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 non-final Office action mailed on 23 January, 2009, with reply due absent an extension of time on or before 23 April, 2009.

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

The Office mailed the Notice of Abandonment on 13 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 amendment, and made the statement of unintentional delay.

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

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 3711 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Application of
Claude E. Cooke

Application No. 11774819

Filed: July 9,2007

Attorney Docket No. 03.1001.09

: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 04-AUG-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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/08/2010

Applicant	: Periannan Chidambaram	: DECISION ON REQUEST FOR
Patent Number	: 7642197	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/774,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2007	: 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

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.
11/774,866	07/09/2007	Jun-Hyung KIM	1235-487 (SP7092)	4030

7590 12/10/2009

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

EXAMINER
BOST, DWAYNE D

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
12/10/2009 0030077575

Credit Card Refund Total: $2050.00

Adjustment date: 12/10/2009 NFARMER
07/10/2007 INTEFSW 00000974 11774866
02 FC:1111 -500.00 CP
04 FC:1202 -1050.00 CP
05 FC:1201 -800.00 CP

FORM PET651G (Rev. 08/07)

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TYCO HEALTHCARE GROUP, LP
60 MIDDLETOWN AVENUE
NORTH HAVEN CT 06473

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SEP 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark S. Roby	:	
Application No. 11/774,875	:	DECISION GRANTING PETITION
Filed: July 9, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2761 DIV 2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 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 August 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Mark S. Roby	: DECISION ON REQUEST FOR
Patent Number	: 7635738	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/774,875	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/774,891	07/09/2007	Hiroshi WATANABE	311870US2RD	4075

7590 06/05/2009

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

EXAMINER	
CHEN, DAVID Z	
ART UNIT	**PAPER NUMBER**
2815	
NOTIFICATION DATE	**DELIVERY MODE**
06/05/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

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DAVID PRESSMAN, ESQ.
1070 GREEN STREET
1402
SAN FRANCISCO CA 94133-5418

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JUL 08 2010

OFFICE OF PETITIONS

In re Application of
George Louie
Application No. 11/774,907
Filed: July 9, 2007
Attorney Docket No. Louie Springless

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 26, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that David Pressman, Esq. does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to 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

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SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

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DEC 10 2008

In re Application of
James D. Anderson, Jr.
Application No. 11/774,917
Filed: July 9, 2007
Attorney Docket No. 11968-1-P12

NOTICE

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.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Laverne Woock
Delta Sports Products, LLC
117 East Kenwood Street
Reinbeck, Iowa 50669

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/774,989	07/09/2007	David B. Lection	I468/US	4245

49277 7590 07/16/2010

SCENERA RESEARCH, LLC
111 CORNING RD.
SUITE 220
CARY, NC 27518

EXAMINER	
FISHBURN, JOHN P	

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
07/16/2010	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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SCENERA RESEARCH, LLC
111 CORNING RD.
SUITE 220
CARY NC 27518

In re Application of: Lection et al.
Application No. 11/774,989
Attorney Docket No. I468/US
Filed: July 9, 2007
For: METHOD AND SYSTEMS FOR PROVIDING REMOTE STRAGE VIA A REMOVABLE MEMORY DEVICE

DECISION ON PETITION UNDER 37 C.F.R. 1.103(a) FOR SUSPENSION OF EXAMINATION

This paper provides the decision on the petition filed on January 13, 2010, under 37 C.F.R. § 1.103(a) for suspension of examination for a period of 6 months.

The Petition is **DISMISSED.**

Applicable Prosecution History

Jul 09, 2007	Application Filed.
Jan 13, 2010	FAOM Mailed.
Jan 13, 2010	Instant Petition filed, requesting that examination of application be suspended in accordance with 37 CFR§1.103(a) for a period of 6 months.
Jun 14, 2010	Response to FAOM filed.

RELIEF REQUESTED

The Applicant respectfully requests that examination of U.S. Patent Application No.: 11/774,989 (instant application) be suspended in accordance with 37 CFR §1.103(a) for a period of 6 months.

RULES AND PROCEDURES

37 CFR 1.103 States as follows:

37 CFR 1.103. Suspension of action by the Office.
(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 prosecution history reveals that at the time of filing of the Petition for Suspension under 37 CFR 1.103(a), the office action mailed on Jan 13, 2010 was outstanding. Therefore, the petition fails to satisfy the requirement of 37 CFR 1.103(a) as outlined above.

Accordingly, the petition is **DISMISSED**.

If Applicant chooses to suspend further prosecution of this application at this time, Applicant is given a period of 15 days from the date of mailing of this decision, to file a new petition under 37 C.F.R. § 1.103(a) for suspension of examination.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Ronald M. Summers	: DECISION ON REQUEST FOR
Patent Number	: 7646904	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,011	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2007	: 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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OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Application of :

DUBOIS, Jean-Luc et al. :
Application No. 11/775,014 : DECISION ON PETITION
Filed: July 09, 2007 : TO WITHDRAW
Attorney Docket No. **072853.0112** : FROM RECORD
:

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

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, [no longer want to represent this client], does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MILLEN, WHITE, ZELANO & BRANIGAN, P.C.**
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON VA 22201

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ABSOLUTE TECHNOLOGY LAW GROUP, LLC
135 W. WELLS, SUITE 518
MILWAUKEE, WI 53203

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OFFICE OF PETITIONS

In re Application of :
Arlene H. SEVILLA, et al :
Application No. 11/775,041 : DECISION ON PETITION
Filed: July 9, 2007 : TO WITHDRAW
Attorney Docket No. SEVILLA-NONP-0707 : FROM RECORD

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 8, 2008.

The request is **APPROVED**.

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

The request was signed by Jill Gilbert Welytok on behalf of the attorneys of record associated with Customer No. 57520.

The attorneys of record associated with Customer No. 57520 have been withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ARLENE H. SEVILLA
2824 N. 69TH STREET
MILWAUKEE, WI 53210

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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Thomas P. Taylor et al. :
Application No. 11/775,072 : DECISION ON PETITION
Filed: July 9, 2007 : TO WITHDRAW
Attorney Docket No. 21801.14 : FROM RECORD
:

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 28, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Haynes and Boone, LLP has been revoked by the assignee of the patent application on September 24, 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: Edmonds Nolte, PC
16815 Royal Crest Drive
Suite 130
Houston, TX 77058

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,072	07/09/2007	Thomas P. Taylor	21801.14

CONFIRMATION NO. 4386

POWER OF ATTORNEY NOTICE

27683
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Date Mailed: 09/29/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/24/2009.

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

/kainabinet/

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

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STEPTOE & JOHNSON - EXPLORAMED NC4, INC.
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES CA 90067

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AUG 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Anton G. Clifford, et al.	:	
Application No. 11/775,139	:	DECISION GRANTING PETITION
Filed: July 9, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 83456.0004	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 19, 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 July 22, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3738 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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GREGORY S. DUNCAN
3009 SOUTH DRIVE
ALLENTIWN PA 18103

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Gregory S. Duncan	:	
Application No. 11/775,180	:	DECISION ON PETITION
Filed: July 9, 2007	:	
Attorney Docket No. 00001	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed January 4, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the nonfinal rejection mailed July 8, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (2) and (3) above.

As to item (2), petitioner submitted the payment of 255.00 for the petition fee instead of the required fee of $270.00. A balance of $15.00 remains. No authorization was provided to charge to a deposit account.

Petitioner states that, "The initial office action filed on 07/08/09 was a rejection of my initial claims. During this time until August [sic] I was asked to be part of a series of professional education lectures for the company that has licensed my device for sale. These added responsibilities coupled with my job (my sole means of financial support) largely impacted my ability to deal with the aforementioned office action until around 9/09."

Petitioner further states that, "While workload played a part in my inability to formulate a response the biggest reason for the delay (to this point) was the company who was licensing my invention had expressed interest in providing me with legal counsel in responding to this office action; however, the company never made good on these actions, leaving me with little legal or financial support to develop a response. After I finished helping them with the courses, I was informed that they had decided not [sic] provide the services to me that we had discussed earlier that summer."

Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence that is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is that the delay in taking action in the above-identified application was the result of petitioner's preoccupation with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay. *See* Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Further, 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. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). 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. *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).

In view of the above, petitioner has not carried his burden of proof in establishing that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the petition will not be granted under the provisions of 37 CFR 1.137(a).

Additionally, petitioner should be aware that the drawings submitted on January 14, 2010 are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 (small entity rate) petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JUL 30 2008

BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST
SUITE 900
HUNTSVILLE AL 35801

In re Application of :
IZATT, David :
Application No. 11/775,214 : DECISION ON PETITION
Filed: July 09, 2007 : TO WITHDRAW
Attorney Docket No. 0A757-74579D : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 18, 2008.

The request is **APPROVED**.

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

The request was signed by David Mixon on behalf of all attorneys of record who are associated with customer No. 32009. All attorneys/agents associated with the Customer Number 32009 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID IZATT**
1525 PERIMETER PARKWAY
SUITE 225
HUNTSVILLE AL 35806

cc: **MARC WINN**
1349 WEST PEACHTREE STREET
SUITE 1740
ATLANTA GA 30309

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600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application of
Romo, et al.
Application No.: 11/775,216
Filed: July 9, 2007
Attorney Docket No.: TAMK:236US
For: CYCLIC-FUSED BETA-LACTONES AND THEIR SYNTHESIS

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed October 1, 2008.

The petition is **DISMISSED**.

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

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

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2).

As to item (1), applicants have failed to establish that Seongho Oh has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. The mailing to Dr. Oh was returned unclaimed. This fact alone establishes neither diligence in trying to find the missing inventor, nor the inventor's refusal by conduct to join in the filing of the application. Dr. Oh may have been on vacation or he may have simply forgotten to pick up his mail. **Do petitioners know if this is a current address for Dr. Oh?** A copy of the application and a request that he execute the enclosed declaration and assignment should be mailed to Dr. Oh's last known address.

Other attempts to reach Dr. Oh should be attempted. If the papers are returned, and other attempts to locate the inventor, e.g. through e-mail, computer searches (such as LEXIS), or the telephone continue to fail (It is unclear from Ms. Jones' statement whether the telephone numbers she called were out of service or were current numbers for Dr. Oh.), then applicants will establish that the inventor cannot be reached.

If it is concluded by the 37 CFR 1.47 applicants that a non-signing 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 should be submitted.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains a non-dated alteration to information for Inventor. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. MPEP 605.04(a)

Fortunately, the alteration is to information for a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor Purohit can correct his information (mailing address and residence) in a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

An oath or declaration in compliance with 37 CFR 1.63 and1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Romo, et al.
Application No.: 11/775,216
Filed: July 9, 2007
Attorney Docket No.: TAMK:236US
For: CYCLIC-FUSED BETA-LACTONES AND THEIR SYNTHESIS

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 9, 2009.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) 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.

Applicants lack item (2) set forth above.

With respect to (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 still has not been presented.

The supplemental declaration executed by Mr. Oh is not acceptable. It appears that Mr. Oh did not execute a copy of the same declaration that the other joint inventors executed. His declaration lists only him as an inventor. Mr. Oh must be on notice of the identity of the other joint inventors.

In addition, as stated in the previous decision on petition, the declaration filed on October 1, 2008 contains a noninitialed, nondated alteration to information for Inventor Purohit. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. MPEP 605.04(a)

Pursuant to 37 CFR 1.67(a)(2), Inventor Purohit may correct his information in a supplemental declaration identifying the entire inventive entity and their information, but signed only by him. Inventor Oh must execute a supplemental declaration that contains full information for all joint inventors.

Once acceptable supplemental declarations executed by Mr. Oh and Mr. Purohit, respectively, are filed, the Office will formally recognize Mr. Oh's joinder and the Rule 47 petition will be dismissed as moot.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Romo, et al. : ON PETITION
Application No.: 11/775,216 :
Filed: July 9, 2007 :
Attorney Docket No.: TAMK:236US :
For: CYCLIC-FUSED BETA-LACTONES AND THEIR SYNTHESIS :

Papers filed on March 30, 2009 in reply to a decision refusing status under 37 CFR 1.47(a), mailed on January 30, 2009, included a Declaration executed by the previously non-signing inventor, Seongho Oh, in compliance with 37 CFR 1.63.

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

In view of the joinder of the inventor, further consideration under 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).

After the mailing of this decision, the application will be forwarded to Technology Center 1625 for examination in due course.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

Mail Date: 04/21/2010

Applicant	: David W. Old	: DECISION ON REQUEST FOR
Patent Number	: 7592366	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2007	: 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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U.S. Army Research Laboratory
Attn: AMSRL CS CC IP
2800 Powder Mill Road
Adelphi, MD 20783-1197

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In re Application of :
David Christopher Smyth et al. :
Application No. 11/775,293 : DECISION ON PETITION
Filed: July 10, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. ARL 05-46 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 14, 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 co-applicant's birth certificate. 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 3616 for action on the merits commensurate with this decision.

Kimberly Inabinet
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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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MAR 09 2010

In re Application of :
Sang Hoon Shin et al :
Application No. 11/775,313 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. CU-5426

This is a decision on the petition, filed March 5, 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 October 8, 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 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SINSHEIMER JUHNKE LEBENS &
MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO CA 93406

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OFFICE OF PETITIONS

In re Application of :
Rosenberg : ON PETITION
Application No. 11/775,314 :
Filed: July 30, 2007 :
Atty Docket No. 3502.155 :

This is in response to the "PETITION AND AMENDMENT PURSUANT TO 37 C.F.R. § 1.57(a)(3)" filed August 14, 2007, requesting that the above-referenced application be accorded a filing date of July 10, 2007.

Application papers in the above-identified application were deposited on July 10, 2007. However, on July 26, 2007, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application," notifying applicant *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicant filed 13 sheets of drawings and an oath covering the drawings on July 30, 2007. Accordingly, the Office accorded a July 30, 2007 filing date to the above-identified application.

Petitioner filed this petition on August 14, 2007. In which, applicant petitions to assign a filing date of July 10, 2007 and submit with the petition a copy of the drawings as substantially contained in the following prior filed applications - 11/618,858, filed December 31, 2006; Application No. 60/872,817,

filed December 4. 2006; and Application No. 60/851,502, filed October 14, 2006. Applicant states priority is claimed to these applications and the prior applications are incorporated by reference into this application.

Petitioner's arguments and evidence have been considered. Relief will be granted on the basis that the application, as filed, contains at least one method claim, and thus, drawings are not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

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 § 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.

To the extent the instant petition requests a filing date of July 10, 2007 with no drawings present in the application, the petition is **GRANTED**.

If applicant wishes to rely on § 1.57(a)(1) to enter the drawing figures, then petitioner must submit a formal amendment in compliance with §§ 1.57 and 1.121 within **TWO (2) MONTHS** of the mailing date of this decision. This period is not extendable. See 37 CFR 1.181(f), 37 CFR 1.57(f) and MPEP 608.01(p). This amendment will be considered by the examiner. It is noted that petitioner states that the drawings are "substantially contained" in the drawings filed with the prior applications. Petitioner is advised that the examiner will review the drawings for new matter.

Given the basis for granting this petition, the petition fee is being refunded to Deposit Account No. 50-2086.

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 July 10, 2007** and **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Robert Nickerson, et al. :
Application No. 11/775,326 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. P19346D :

This is a decision in response to the petition, filed January 29, 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 16, 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 6, 2009. In response, on January 29, 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 2815 for appropriate action by the Examiner in the normal course of business on the reply received January 29, 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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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,326	07/10/2007	Robert Nickerson	884.C70US2

CONFIRMATION NO. 4819

POA ACCEPTANCE LETTER

59796
INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

OC00000035208971

Date Mailed: 03/27/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2009.

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.

/sdbrinkley/

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
11/775,326	07/10/2007	Robert Nickerson	884.C70US2

CONFIRMATION NO. 4819

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000035208970

Date Mailed: 03/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2009.

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

/sdbrinkley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/775,369	07/10/2007	Maureen M. Farinella	121357.00003 CON	4885

26707 7590 08/07/2007

QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX, AZ 85004-2391

EXAMINER	
ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
08/07/2007	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.

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082007

QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX AZ 85004-2391

AUG -7 2007

In re Application of:
Maureen M. Farinella et al.
Serial No.: 11/775,369
Filed: July 10, 2007
Docket: 121357.00003 CON
Title: BOOKMARK WITH INTEGRATED ELECTRONIC TIMER AND METHOD 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 July 11, 2007, to make the above-identified application special for accelerated examination procedure in accordance with 37 C.F.R. § 1.102(d).

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

Effective August 25, 2006, the accelerated examination procedure outlined under M.P.E.P. § 708.02.VIII was replaced by the new accelerated examination procedure outlined in the Federal Register, vol. 71, No. 122 of June 26, 2006 (71 Fed. Reg. 36323).

To be eligible for accelerated examination under M.P.E.P. § 708.02 in accordance with 37 C.F.R. § 1.102(d) and pursuant to the Notice in 71 Fed. Reg. 36323, the following conditions are required:

1. the application is not a 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 the notice in the Federal Register, vol. 71, No. 122 (June 26, 2006), and in accordance with 37 C.F.R. § 1.102(d) because it was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The petition does not meet condition 2 above because the petition and the required fee were not submitted concurrently with the filing of the application but after the filing of the instant application.

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.

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/.

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 inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

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

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MAY 2 1 2010

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re application of
David Geltner et al
Application No. 11/775,401
Filed: July 10, 2007
Attorney Docket No. 0492611-0730
(MIT12464)

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 26, 2010. This is also in reply to the request for refund filed March 29, 2010.

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.

As to the request for refund filed on March 29, 2010; Office records show that the duplicate payment of $1,955.00 was credited to petitioner's account on April 7, 2010.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Manfred Franz Freissle	: DECISION ON REQUEST FOR
Patent Number	: 7604127	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,403	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2007	: 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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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/775,429	07/10/2007	Jae Sang LEE	KSA-0109	4971

7590 07/14/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
DUVERNE, JEAN F	
ART UNIT	PAPER NUMBER
2839	
NOTIFICATION DATE	DELIVERY MODE
07/14/2009	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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/13/2009 NFARMER
07710/2007 INTEFSW 00007897 061130 11775429
02 FC:1111 500.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

COPY MAILED

DEC 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Douglas P. Hand :
Application No. 11/775,433 : DECISION ON PETITION
Filed: July 10, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. HAND 3620 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 10, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant, Douglas P. Hand, that he is older than 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

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

The application is being forwarded to Technology Center Art Unit 3751 for examination in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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AUG 0 6 2009

OFFICE OF PETITIONS

In re Application of
Mirko Herforth
Application No. 11/775,450
Filed: July 10, 2007
Attorney Docket No. P06068US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 15, 2009.

The request is **APPROVED**.

A review of the file record indicates that James A. Collins: (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, James A. Collins 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: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Wong et al.	:	
Application No. 11/775489	:	
Filing or 371(c) Date: 07/10/2007	:	
Attorney Docket Number:	:	DECISION
TI-62033	:	ON PETITION

This is a decision on the "Petition to Accord Filing Date for Nonprovisional Patent Application", filed September 20, 2007, requesting the above-identified application be accorded a filing date of July 10, 2007 based upon Applicant's assertion that the omitted drawings are fully supported in the specification; represent no new matter and are thus not necessary in order to accord the application a filing date. The petition is properly treated under 37 CFR 1.53(e).

The petition is granted to the extent indicated herein.

The application was filed on July 10, 2007. On July 26, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings. The Notice also required the basic filing, search and examination fees.

Applicant responds with the present petition; preliminary amendment to add drawings; drawings and a copy of the oath/declaration filed with the application on July 10, 2007, and requests the above-identified application be accorded a filing date based upon the response filed herewith. Applicant also asserts that the filing, search and examination fees were included with the application papers filed on July 10, 2007.

Applicable Law, Rules and MPEP

Filing Date

A review of the file reveals that the specification contains method claims (i.e. claims 9-15). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing
>
> figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

To the extent that the present petition requests a filing date, the petition is **granted**.

Filing Fees

A review of the application file reveals that Applicant included a Fee Transmittal with the application papers filed on July 10, 2007, authorizing this office to charge the filing fees and any additional fees to Applicant's deposit account. The filing fee have been charged to Applicant's deposit account as authorized in the Fee Transmittal.

The Notice mailed July 26, 2007, was mailed in error and is hereby withdrawn.

Omitted drawings

Applicant may attempt to add the omitted figure by way of amendment, and without a petition.

Amendment under 37 CFR 1.57(a)

The MPEP 601.01(f) provides that

> As an alternative to a petition under 37 CFR 1.53(e), if the drawing(s) was inadvertently omitted from an application filed on or after September 21, 2004, and the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the

> inadvertently omitted drawing(s) is completely contained in the prior-filed application, the applicant may submit the omitted drawing(s) by way of an amendment in compliance with 37 CFR 1.57(a). The amendment must be by way of a petition under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. (Emphasis supplied).

Applicant is advised that a petition is not necessary in this instance to add the omitted figures.

37 CFR 1.57(a), incorporation by reference, provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s).

However, where a filing date has been accorded an application, a petition is not necessary to add the omitted portion of the specification or drawing(s). "If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f)." 37 CFR 1.57(a)(3). (Emphasis supplied). *See, Also*, MPEP 201.17(F).

The Manual of Patent Examining Procedure ("MPEP") also provides that

> ...37 CFR 1.57(a) was added to provide a safeguard for applicants when a page(s) of the specification, or a portion thereof, or a sheet(s) of the drawing(s), or a portion thereof, is inadvertently omitted from an application, such as through a clerical error. 37 CFR 1.57(a) applies to applications filed on or after September 21, 2004. 37 CFR 1.57(a) permits inadvertently omitted material to be added to the application by way of a later filed amendment if the inadvertently omitted portion of the specification or drawing(s) is completely contained in a prior-filed application (for which priority/benefit is claimed) even though there is no explicit incorporation by reference of the prior-filed application. *See* MPEP § 201.17 for discussion regarding 37 CFR 1.57(a). *See* MPEP § 601.01(p). (Emphasis supplied).

MPEP 201.06(c)(IV)(B).

No petition is required. Acknowledgment is hereby made of receipt of the preliminary amendment filed with the present petition on September 20, 2007. Entry of an Amendment will be determined by the Examiner.

In view of the fact that the petition was necessitated by an error on the part of this Office, no petition fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for:

1. correction of the filing date to July 10, 2007;

2. withdrawal of the Notice of Incomplete Provisional Application mailed July 26, 2007;

3. mailing of a Notice of Omitted Item(s);

4. issuance of a corrected Filing Receipt

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : December 14, 2009

TO : Director, Office of Data Management

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 11/775,517**

Applicant(s) : Ibrahim Hur, et al.
Application No. : 11/775,517
Filed : July 10, 2007

The above-identified application has been assigned Patent No. 7,636,270 and an issue date of December 22, 2009.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 22, 2009:

"All reference to Patent No. 7,636,270 to Ibrahim Hur, et al. of Texas for MEMORY CONTROLLER WITH PROGRAMMABLE REGRESSION MODEL FOR POWER CONTROL appearing in the Official Gazette of December 22, 2009 should be deleted since no patent was granted."

Terri Johnson
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Brad Harris
Kim Terrell
Lamont Fletcher

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Carlos Matute Almau	: DECISION ON REQUEST FOR
Patent Number	: 7651836	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2007	: 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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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of

Weintraub, et al.

Application No. 11/775,582

Filed: July 10, 2007

Attorney Docket No. ZAR0001US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 14, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on October 16, 2208, after it was believed that no response was received to the election/restriction requirement mailed September 15, 2008. The notice allowed a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 24, 2009, indicating that a reply to the election/restriction requirement was not received.

Petitioner states that an election was filed on February 17, 2009, with a request for an extension of time within the fourth month. A review of the application file reveals that the election is of record as of February 17, 2009[1]. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

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

The application file is being forwarded Technology Center 3700, GAU 3767 for further processing including lifting of the abandonment status on the application and consideration of the election filed February 17, 2009.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that the election filed February 17, 2009, is a timely response to the election/restriction requirement mailed September 15, 2009, because February 15, 2009, was a Sunday and February 16, 2009, was a federal holiday.

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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	: David W. Lloyd	: DECISION ON REQUEST FOR
Patent Number	: 7626285	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/775,606	07/10/2007	Ernesto E. BLANCO	308747US17	5296

7590 02/20/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
RANADE, DIVA

ART UNIT	PAPER NUMBER
3763	

NOTIFICATION DATE	DELIVERY MODE
02/20/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

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Adjustment date: 02/19/2009  BPOWELL
07/11/2007 INTEFSW  00001413 11775606
02 FC:2111                    -250.00 OP
04 FC:2202                    -250.00 OP
05 FC:2201                    -100.00 OP
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Refund Ref:
02/19/2009                0030066819
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Credit Card Refund Total:      $500.00

Am Exp..: XXXXXXXXXXX1008
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FORM PET651G (Rev. 08/07)

Adjustment date: 02/19/2009 BPOWELL
07711/2007 INTEFSW 00001413 11775606
02 FC:2111 -250.00 OP
04 FC:2202 -250.00 OP
05 FC:2201 -100.00 OP

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DUCKOR SPRADLING METZGER & WYNNE
A LAW CORPORATION
3043 4TH AVENUE
SAN DIEGO, CA 92103

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Tracey M. Komata, et al. :
Application No. 11/775,620 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 20090-101US : FROM RECORD
:

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 14, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because no statement under 3.73(b) was filed.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: BLUE ANGUS, INC.
1155 CAMINO DEL MAR
SUITE 423
DEL MAR, CA 92014

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A LAW CORPORATION
3043 4TH AVENUE
SAN DIEGO, CA 92103

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Tracey M. Komata, et al. :
Application No. 11/775,620 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 20090-101US : FROM RECORD
:

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, 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 request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline.

Further, the request cannot be approved because no statement under 3.73(b) was filed.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank copy of form PTO/SB/83
Blank copy of 3.73(b)

cc: BLUE ANGUS, INC.
1155 CAMINO DEL MAR
SUITE 423
DEL MAR, CA 92014

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United States Patent and Trademark Office
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A LAW CORPORATION
3043 4TH AVE.
SAN DIEGO, CA 92103

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Tracey M. Komata, et al. :
Application No. 11/775,620 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 20090-101US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2009 and resubmitted February 27, 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 Bernard L. Kleinke on behalf of all attorneys of record who are associated with customer No. 36412. All attorneys/agents associated with the Customer Number 36412 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: BLUE ANGUS, INC.
1155 CAMINO DEL MAR
SUITE 423
DEL MAR, CA 92014

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,620	07/10/2007	Tracey M. Komata	20090-101US

CONFIRMATION NO. 5327

POWER OF ATTORNEY NOTICE

36412
DUCKOR SPRADLING METZGER & WYNNE
A LAW CORPORATION
3043 4th Ave.
SAN DIEGO, CA 92103

OC00000035281174

Date Mailed: 04/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2009.

- 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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WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Bailey, et al.	:	
Application No. 11/775,629	:	DECISION REFUSING STATUS
Filed: July 10, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 15892.27	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 28, 2008.

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 non-signing inventor Rice. Rather, petitioner only states that the Assignment and Declaration and Power of Attorney documents were forwarded to Rice.

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 the non-signing inventor. If the application papers were previously forwarded to the non-signing inventor, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/10/09

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11775645 Patent No.: 7506544 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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: Thanks

Li Gutto 2855

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6731

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OFFICE OF PETITIONS

In re Application of

Theodore I. Malinin
Application No. 11/775,656
Filed: July 10, 2007
Attorney Docket No. 258266

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 7, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration 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 3733 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GRAYBEAL JACKSON HALEY LLP / JABLONSKI LAW GROUP
155 - 108TH AVE NE SUITE 350
BELLEVUE, WA 98004

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Dean Iverson Sproles	:	TO WITHDRAW
Application No. 11/775,660	:	FROM RECORD
Filed: July 10, 2007	:	
Attorney Docket No. 85693-13	:	

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 **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Graybeal Jackson Haley LLP/Jablonski Law Group, were revoked by the assignee of the patent application on July 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 the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DAVIS WRIGHT TREMAINE, LLP/SEATTLE
1201 THIRD AVENUE, SUITE 2200
SEATTLE, WA 98101-3045

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OFFICE OF PETITIONS

HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Jens Gelhar :
Application No. 11/775,666 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 11336-1656 (P06069US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED**.

The request was signed by John F. Nethery on behalf of all attorneys of record who are associated with customer No. 81166.

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: Jens Gelhar
Wendenstrasse 130
Hamburg, Germany 20537

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Tim Haulick et al :
Application No. 11/775,687 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 11336-1663 (P05046US) : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED**.

The request was signed by John F. Nethery on behalf of all attorneys of record who are associated with customer No. 81166.

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: Tim Haulick
In den Schlosswiesen 14
Blaubeuren, Germany 89143

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/775,705	07/10/2007	Scott C. Harris	Streaming Media	5497

23844 7590 05/19/2010

SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

EXAMINER	
FORMAN, JAMES Q	

ART UNIT	PAPER NUMBER
2448	

NOTIFICATION DATE	DELIVERY MODE
05/19/2010	ELECTRONIC

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

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

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

scott@harrises.com
schuspto@gmail.com

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe CA 92067-1389

In re Application of: Scott C. HARRISS
Application No. 11/775705
Filed: July 10, 2007
For: MEDIA PLAYER WITH AUTOMATIC STREAMING OF MEDIA FILES

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the Request for Exercise of Supervisory Authority and Withdrawal of Finality of Office action mailed March 3, 2010. The Request filed March 12, 2010 has been treated as a petition under 37 C.F.R. § 1.181 to review the propriety of the Final rejection mailed March 3, 2010.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

June 4, 2009	The Examiner issued a non final rejection against claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over Singer et al (US Pub. 2006/0041561) in view of Pirtle et al. (US Pub. 2007/0055743)
Sep 3, 2009	An amendment was filed by the applicant containing amendment to independent claims 1, 9 and 16, dependent claims were amended by virtue of their independency. New claims 21-22 were added.
Mar 3, 2010	The Examiner issued a office action finally rejected claims 9 and 21 under 35 U.S.C. 102(e) as being anticipated by Ng et al (US Pub. 2006/0168351) and claims 1-8, 10-20, and 22 under 35 U.S.C. 103(a) as being unpatentable over Ng et al (US Pub. 2006/0168351) in view of Risan et al. (US Pub. 2005/0169467).
Mar 12, 2010	The instant petition was filed requesting withdrawing the Finality of the action mailed Mar 3, 2010.

REGULATIONS AND PRACTICE

MPEP. 706.07(a) states in part that:

> Under present practice, **second or any subsequent action on the merits *shall* be made final**, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

MPEP. 706.07(d) states in part that:

> If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection. Once the finality of the Office action has been withdrawn, the next Office action may be made final if the conditions set forth in MPEP § 706.07(a) are met.

MPEP. 1207.04 states in part that:

> The Office action containing a **new ground of rejection may be made final** if the new ground of rejection was (A) **necessitated by amendment**, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings...

DECISION

A review of the file indicates that in the amendment filed Sep 3, 2009, claim 9 was amended to fix a grammatical error by deleting "of a" from the limitation "automatically detecting a proximity *of a* connection" (emphasis added). The amendment does not affect the feature of "automatically streaming at least one file to the media playing unit found by said automatically detecting" in which the applicant argued lacking in the rejection of Singer et al (US Pub. 2006/0041561) in view of Pirtle et al. (US Pub. 2007/0055743). In the Final rejection, claim 9 was rejected under a new ground of rejection as anticipated by Ng et al (US Pub. 2006/0168351). Note the Ng reference was newly cited art by the examiner and not based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Thus the finality of claim 9 is improper.

For the above stated reasons, the petition is **GRANTED.**

The Final Office action mailed March 3, 2010 hereby withdrawn. The application has been forwarded to examiner of record to issue another non-Final Office action.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and
Information Security

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Stephan Schreier	: DECISION ON REQUEST FOR
Patent Number	: 7651376	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/775,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2007	: 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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OFFICE OF PETITIONS

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

In re Application of :

KASUYA, Atsushi :
Application No. 11/775,767 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. **23642-11946** : FROM RECORD
:

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 08, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Kanda Ishihara on behalf of all attorneys of record who are associated with customer No. 00758. All attorneys/agents associated with the Customer Number 00758 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ATSUSHI KASUYA**
1643 WRIGHT AVENUE
SUNNYVALE CA 94087

cc: **VENTURE PACIFIC LAW, P.C.**
5201 GREAT AMERICA PARKWAY
SUITE 270
SANTA CLARA CA 95054

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Benjamin B. WIDHELM, et al	:	
Application No. 11/775,809	:	DECISION ON PETITION
Filed: July 10, 2007	:	TO WITHDRAW
Attorney Docket No. 70864.00002UTL1	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

A review of the file record indicates that Todd Schneider does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ELEPHANTDRIVE, INC.
(ATTN: MICHAEL C. FISHER)
1100 GLENDON AVENUE, 17TH FLOOR
LOS ANGELES, CA 90024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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MAR 31 2009

OFFICE OF PETITIONS

In re Application of :
Benjamin B. WIDHELM, et al :
Application No. 11/775,809 : DECISION ON PETITION
Filed: July 10, 2007 : TO WITHDRAW
Attorney Docket No. 70864.00002UTL1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 2, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd Schneider does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ELEPHANTDRIVE, INC.
(ATTN: MICHAEL C. FISHER)
1100 GLENDON AVENUE, 17TH FLOOR
LOS ANGELES, CA 90024

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PAUL, HASTING, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Benjamin B. WIDHELM, et al	:	
Application No. 11/775,809	:	DECISION ON PETITION
Filed: July 10, 2007	:	TO WITHDRAW
Attorney Docket No70864.00002.UTL1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2009.

The request is **APPROVED**.

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

The request was signed by Martin R. Bader on behalf of the attorneys of record associated with Customer No. 36183.

The attorneys of record associated with Customer No. 36183 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BENJAMIN B. WIDHELM
3592 WOODCLIFF ROAD
SHERMAN OAKS, CA 91403

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,809	07/10/2007	Benjamin B. Widhelm	70864.00002.UTL1

CONFIRMATION NO. 5705

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

Date Mailed: 05/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2009.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL RIES
318 PARKER PLACE
OSWEGO, IL 60543

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Anderson :
Application No. 11/775,818 : DECISION ON PETITION
Filed: July 10, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. TA0707 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 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 photocopy of applicant's birth certificate. 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.

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

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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O'Melveny & Myers LLP
IP&T Calendar Department LA-1118
400 South Hope Street
Los Angeles CA 90071-2899

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Mitter, et al. : DECISION GRANTING STATUS
Application No. 11/775,822 : UNDER 37 CFR 1.47(a)
Filed: July 10, 2007 :
Atty. Dkt. No.: 775475-139 :

This decision is in response to the petition under 37 CFR 1.47(a), filed December 4, 2007.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to execute the declaration for the above-identified application after having been presented with the application papers (specification, including claims, drawings, and oath or 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Chang Su Mitter
16404 South 23rd Way
Phoenix, AZ 85048

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Mitter, et al.	:	
Application No. 11/775,822	:	LETTER
Filed: July 10, 2007	:	
Atty. Dkt. No.: 775475-139	::	

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/775,879	07/11/2007	Dennis J. McCarthy	10070087-01	5824

7590 12/03/2009

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

EXAMINER	
BASOM, BLAINE T	
ART UNIT	**PAPER NUMBER**
2173	
NOTIFICATION DATE	**DELIVERY MODE**
12/03/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 12/02/2009 NFARMER
07/11/2007 INTEFSW 00003602 501078 11775879
02 FC:1111 580.00 CR

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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In re Application of
Ivars V. Ivansons

Application No. 11775906

Filed: July 11,2007

Attorney Docket No. DENCO-60 (146*153)

: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 01-APR-2009 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.

PTO/SB/130 (03-09)
Approved for use through 04/30/2009. 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	11775906	Confirmation Number	5869	Filing Date	2007-07-11
Attorney Docket Number (optional)	DENCO-61(146*153)	Art Unit		Examiner	
First Named Inventor	IVARS V. IVANSONS				
Title of Invention	OZONE INFECTION CONTROL DEVICE				

Attention: Office of Petitions

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

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

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

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

Given Name	Middle Name	Family Name	Suffix
DUDLEY		SPENCER	

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	/HAROLD PEZZNER/	Date (YYYY-MM-DD)	2009-04-01
Name	HAROLD PEZZNER	Registration Number	22112

PTO/SB/130 (03-09)
Approved for use through 04/30/2009. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. BOX 2207
WILMINGTON, DE 19899-2207

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Ivars V. Ivansons, et al. :
Application No. 11/775,906 : DECISION ON PETITION
Filed: July 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. DENCO-60 (145*153) : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 17, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from applicant's attorney. 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 1795 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOR: TYCO FIRE SUPPRESSION & BUILDING PRODUCTS
PERKINS COIE LLP
607 FOURTEENTH STREET, NW
WASHINGTON DC 20005-2003

MAILED

APR 22 2010

OFFICE OF PETITIONS

In re Application of :
Radzik et al. :
Application No. 11/775,931 : DECISION GRANTING PETITION
Filed: July 11, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. S-FB-00100/1 US (-8031.US01) :

This is a decision on the petition, filed March 1, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 29, 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 July 29, 2010, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3679 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,931	07/11/2007	Joseph G. Radzik	S-FB-00100/1 (-047US)

CONFIRMATION NO. 5905

60708
FOR: TYCO FIRE SUPPRESSION & BUILDING PRODUCTS
PERKINS COIE LLP
607 Fourteenth Street, NW
Washington, DC 20005-2003

NONPUBLICATION RESCISSION LETTER

OC000000041182845

Date Mailed: 04/20/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/29/2010.

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

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

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

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

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

/lswalsh/

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

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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MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE FL 33330

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of
Ted Bradley
Application No. 11/775,937
Filed: July 11, 2007
Attorney Docket No. Armadillo/Patent

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 22, 2009.

The request is **APPROVED**.

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

The request was signed by Scott D. Smiley on behalf of attorney/agents associated with customer number 27316. All attorneys/agents associated with customer number 27316 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ted Bradley
P.O. Box 827672
Pembroke Pines, FL 33082-7672

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/775,937	07/11/2007	Ted Bradley	Armadillo/Patent

CONFIRMATION NO. 5912

27316
MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE, FL 33330

POWER OF ATTORNEY NOTICE

OC000000036985576

Date Mailed: 07/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2009.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

COPY MAILED

AUG 30 2007

OFFICE OF PETITIONS

In re Application of :
Byung Ho Park :
Application No. 11/775971 : NOTICE
Filed: 07/11/2007 :
Attorney Docket No. H&C-100 :

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 the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED
FEB 26 2010

In re Application of	:	
Smith-Swintosky et al.	:	
Application No. 11/776,003	:	DECISION ON PETITION
Filed: July 11, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ORT 1249USDIV1	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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 Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. Although stated in the instant petition itself, the ADS filed concurrently fails to state the relationship of Application No. 09/863,600, filed May 23, 2001, to the instant application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

cc: PATTON BOGGS LLP
8484 WESTPARK DRIVE, 9TH FLOOR
MCLEAN, VA 22102

[1] *Note* 37 CFR 1.121

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PATTON BOGGS LLP/ JOHNSON & JOHNSON
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Smith-Swintosky et al.	:	
Application No. 11/776,003	:	DECISION GRANTING PETITION
Filed: July 11, 2007	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 026038.0252D1US	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 11, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS).

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on July 11, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an ADS, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the intermediate nonprovisional application, Application No. 09/863,600, filed May 23, 2001, was filed within twelve months of provisional Application No. 60/207,654, which was filed on May 26, 2000, for which priority is claimed.

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) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications 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 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1649 for appropriate action, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/776,003	07/11/2007	1649	2014		37	2

CONFIRMATION NO. 6026

CORRECTED FILING RECEIPT

93358
Patton Boggs LLP/ Johnson & Johnson
8484 Westpark Drive
Suite 900
McLean, VA 22102

Date Mailed: 06/03/2010

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

Applicant(s)

Virginia Smith-Swintosky, Hatfield, PA;
Michael Renzi, Harleysville, PA;
Carlos Plata-Salaman, Ambler, PA;
Linda Jolliffe, Hillsborough, NJ;
Francis Farrell, Doylestown, PA;
Dana Johnson, Upper Black Eddy, PA;

Power of Attorney: The patent practitioners associated with Customer Number 93358

Domestic Priority data as claimed by applicant

This application is a DIV of 09/863,600 05/23/2001 PAT 7,259,146
which claims benefit of 60/207,654 05/26/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/14/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/776,003**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NEUROPROTECTIVE PEPTIDES

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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ROBERT FROHWERK
551 CLEARVUE DRIVE
MERIDIAN ID 83646

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SEP 22 2008
OFFICE OF PETITIONS

In re Application of
William Taggart
Application No. 11/776,015
Filed: July 11, 2007
Attorney Docket No. 7166

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 10, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 12 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 1, 2009 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3617 for examination in due course.

Charlema Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/776,015	07/11/2007	William Taggart	7166

CONFIRMATION NO. 6053

35459
ROBERT FROHWERK
551 CLEARVUE DRIVE
MERIDIAN, ID 83646

NONPUBLICATION RESCISSION LETTER

OC00000032069071

Date Mailed: 09/22/2008

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 01/01/2009.

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".

/crgrant/

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

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HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
Anthony Andrew Poliak :
Application No. 11/776,057 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. 11336-1636 (P07104US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED**.

The request was signed by John F. Nethery on behalf of all attorneys of record who are associated with customer No. 81166.

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: Anthony Andrew Poliak
12202 11th Place
Lake Stevens, WA 98258

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498.

In re Application of	:	
Timothy R. Miller, John W.	:	
Morris, Cristy J. Richards,	:	
Daniel Rosenthal, and Lawrence	:	
A. Shimp		
Application No. 11/776,070	:	DECISION ON PETITION
Filed: July 11, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.47(A)
186220/US/2	:	
Title: EXPANDABLE OSTEOIMPLANT	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a)[1], filed January 3, 2008.

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1 A grantable petition under 37 C.F.R. § 1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130, if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that either:
a) a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application, or
b) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

This petition pursuant to Rule § 1.47(a) is **DISMISSED.**

On July 11, 2007, the application was filed, Timothy R. Miller, John W. Morris, Cristy J. Richards, Daniel Rosenthal, and Lawrence A. Shimp as joint inventors. The application was deposited without an executed declaration. On August 3, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the present petition, Petitioner has included, *inter alia*, a declaration that has been signed by each of the inventors save Mr. Morris, the fee that is associated with the late submission of the same, a portion of the petition fee[2], and a three-month extension of time so as to make timely this response.

Petitioner has met requirements (1) - (3) of Rule § 1.47(a).

Regarding the fourth requirement of Rule § 1.47(a), **it does not appear that a complete copy of the application was sent to the last-known address of the two non-signing inventor.** Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration[3]. As no mention has been made of any presentation of the application to the non-signing inventor in either the petition or the two letters that were sent to him, the fourth requirement has not been met.

Before filing the renewed petition, Petitioner should mail a complete copy of the application to the non-signing inventor, and provide him with a reasonable period of time to respond. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

It follows that since it has not been shown that a complete copy of the application was sent to the non-signing inventor, one cannot refuse to sign something which one has not seen. A

---

2 Petitioner has submitted $130 towards the $200 petition fee. The remainder of the petition fee will be charged to Petitioner's Deposit Account, in due course.

3 See M.P.E.P. § 409.03(d).

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. It is reasonable to require that the inventor be presented with the application papers before a petition under Rule § 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[4].

Regarding the fifth requirement of Rule § 1.47(a), Petitioner has not submitted a declaration that complies with 37 C.F.R. § 1.52(c). The declaration submitted with this petition contains an alteration to both the title of the invention and the first-named inventor[5]. On renewed petition, Petitioner should submit a newly executed declaration that is fee of alterations.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C. § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[6], hand-delivery[7], or facsimile[8]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[9].

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.

---

4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 See MPEP § 605.04(a).
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[10].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

COPY MAILED

JUN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Timothy R. Miller, John W.	:	
Morris, Cristy J. Richards,	:	
Daniel Rosenthal, and Lawrence	:	DECISION NOTING JOINDER AND
A. Shimp	:	DISMISSING RENEWED PETITION
Application No. 11/776,070	:	PURSUANT TO 37 C.F.R.
Filed: July 11, 2007	:	§ 1.47(A) AS MOOT
Attorney Docket Number:	:	
186220/US/2	:	
Title: EXPANDABLE OSTEOIMPLANT	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed June 3, 2008.

A one-month extension of time has been charged to Petitioner's Deposit Account, so as to make timely this submission.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);

(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

On July 11, 2007, the application was filed, and Timothy R. Miller, John W. Morris, Cristy J. Richards, Daniel Rosenthal, and Lawrence A. Shimp were listed as joint inventors. The application was deposited without an executed declaration. On August 3, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

An original petition was filed on January 3, 2008, which was dismissed via the mailing of a decision on March 3, 2008.

With this renewed petition, Petitioner has included an acceptable declaration that has been executed by the previously non-signing joint inventor.

As such, this renewed petition is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further consideration under 37 C.F.R. § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(a).

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,101	07/11/2007	Ki-Chan LEE	ABS-013 US	6211

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.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
07712/2007 INTEFSW 00000073 502257 11776101
02 FC:1111 500.00 CR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090625

DATE : June 25, 2009

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 7501621

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:

/ROBERT KIM/
Supervisory Patent Examiner.Art Unit 2881

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,151	07/11/2007	Hiroyuki Akatsu	JP920060025US1	6282

45092 7590 12/23/2008

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

EXAMINER	
MANSFIELD, THOMAS L	

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
12/23/2008	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):

PTOCommunications@hoffmanwarnick.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 23 2008

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

In re Application of:	:	DECISION ON REQUEST TO
Akatsu, Hiroyuki et al.	:	PARTICIPATE IN PATENT
Application No.: 11/776,151	:	PROSECUTION HIGHWAY PILOT
Filed: July 11, 2007	:	PROGRAM AND PETITION TO
Attorney Docket: JP920060025US1	:	MAKE SPECIAL UNDER 37 CFR
For: System and Method for	:	1.102(d)
Managing Workflow	:	

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 November 13, 2008 to make the above-identified application special.

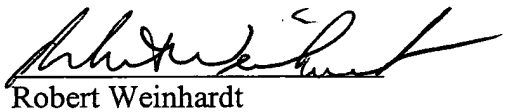
The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program comply with the above requirements. Therefore, the above-identified application has been accorded "special" status and is being forwarded to the examiner for action on the merits commensurate with this decision

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.



Robert Weinhardt
TC3600
Business Practice Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI, LLP
20333 SH 249
SUITE 600
HOUSTON, TX 77070

COPY MAILED
OCT 01 2008

In re Application of	:	
Jordi Parramon, et al.	:	
Application No. 11/776,170	:	DECISION ON PETITION
Filed: July 11, 2007	:	TO WITHDRAW
Attorney Docket No. 585-0047US / BSC 07-00230-01	:	FROM RECORD

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

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 70573 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Foley and Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
Pierre Craen et al. :
Application No. 11/776,173 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. 042098-0122 : FROM RECORD
:

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 27, 2008.

The request is **APPROVED**.

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

The request was signed by Rouget F. Henschel, on behalf of all attorneys/agents associated with customer number 22428. All attorneys/agents associated with customer number 22428 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the inventor. A courtesy copy of this decision will be mailed to the address indicated in the request to withdraw. If the attorneys desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Pierre Craen
68, rue de la charité
69002 Lyon
FRANCE

cc: Mr. Jonathan P. Osha
Osha & Liang LLP
One Houston Center Suite 2800
1221 McKinney Street
Houston, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/776,173	07/11/2007	Pierre CRAEN	042098-0122

CONFIRMATION NO. 6313

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Date Mailed: 08/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2008.

- 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

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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Elsa Keller
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Moore et al.	:	
Application No. 11/776187	:	
Filing or 371(c) Date: 07/11/2007	:	ON PETITION
Attorney Docket Number:	:	
283139-01244 (2005P00949U	:	

This is a decision on the "Petition for Withdrawal of Notice of Incomplete Reply," filed September 27, 2007.

This Petition is hereby **dismissed**.

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

Background

The application was filed on July 11, 2007, and included a preliminary amendment to the specification and claims. The application did not include a nonpublication request. This Office mailed a Notice to File Corrected Application on Papers (Notice) on August 3, 2007, requiring, *inter alia*, a substitute specification.

Applicant responded to the Notice's requirement to file a substitute specification, Applicant requested that OIPE specify the authority upon which the requirement was made. Applicant asserts that 37 CFR 1.125 only authorizes "if the number and nature of the amendments of the legibility of the application papers renders it difficult to consider the application, or to arrange the papers for printing or copying, the Office may require the entire specification, including the claims, or any part thereof to be rewritten." Applicant contends that OIPE has not met its initial burden of showing how... [the application papers as-filed require] arrange[ment] for printing or copying."

In response to Applicant's response, this office mailed a Notice of incomplete Reply requiring a substitute specification.

Applicant files the present petition and reiterates the arguments presented in the initial response to the Notice to File Corrected Application on Papers mailed August 3, 2007.

Applicable Law, Rules and/or MPEP

35 U.S.C. 2 Powers and duties, states:

(a) IN GENERAL. — The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce — (b) SPECIFIC POWERS. — The Office —
(2) may establish regulations, not inconsistent with law, which —
(A) shall govern the conduct of proceedings in the Office;
(B) shall be made in accordance with section 553 of title 5;
(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

The statute provides the authority to promulgate the rules. The specific rules in this instance are 37 CFR 1.115 and 37 CFR 1.215.

37 CFR 1.115, Preliminary amendments, states:
(a) A preliminary amendment is an amendment that is received in the Office (§ 1.6) on or before the mail date of the first Office action under § 1.104. The patent application publication may include preliminary amendments (§ 1.215 (a)).
(1) A preliminary amendment that is present on the filing date of an application is part of the original disclosure of the application.
(2) A preliminary amendment filed after the filing date of the application is not part of the original disclosure of the application.

The MPEP 714.01(e), Amendments Before First Office Action, explains, in relevant part:

If a preliminary amendment is filed in a format that cannot be included in the publication, the Office of Initial Patent Examination (OIPE) will issue a notice to the applicant requiring the applicant to submit the amendment in a format usable for publication purposes. See 37 CFR 1.115(a)(1) and 1.215. The only format for an amendment to the specification (other than the claims) that is usable for publication is a substitute specification in compliance with 37 CFR 1.121(b)(3) and 1.125. As a result, the Office has revised its procedures to mail a notice (e.g., "Notice to File Corrected Application Papers") requiring a substitute specification in compliance with 37 CFR 1.121(b)(3) and 1.125, if an applicant included a preliminary amendment to the specification (other than the claims) on filing. Where applicant wishes to make a specific reference to a prior application as required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a), the specific reference can be submitted in an application data sheet (ADS) under 37 CFR 1.76 rather than in a preliminary amendment to the first sentence(s) of the

specification. See 37 CFR 1.78(a)(2)(iii) and (5)(iii). If the specific reference is submitted in a preliminary amendment, however, a substitute specification will not be required if the preliminary amendment only adds or amends a benefit claim to a prior-filed application under 35 U.S.C. 120, 121, 365(c), or 119(e). If an applicant receives a notice from OIPE (e.g., "Notice to File Corrected Application Papers") requiring a substitute specification because a preliminary amendment was filed that only adds or amends a benefit claim, applicant may reply to the notice explaining that a substitute specification should not have been required because the amendment was only to add or amend a benefit claim. In order to avoid abandonment, applicant should file a reply with the required substitute specification or an explanation that the substitute specification is not necessary because the preliminary amendment only adds or amends a benefit claim. If the preliminary amendment contains other amendments to the specification (other than the claims), a substitute specification will be required, and a reply to a notice requiring a substitute specification without the substitute specification will be treated as an incomplete reply with no new time period for reply being provided.

Requiring a substitute specification (with all preliminary amendments made therein) is also important to ensure that applicants do not circumvent the limitations upon redacted publications set forth in 35 U.S.C. 122(b)(2)(B)(v). As preliminary amendments to the specification, excluding the claims, cannot be easily published, the Office must require a substitute specification whenever an application is filed with a preliminary amendment to the specification, excluding the claims, in order to ensure that the application, including any new matter added by way of a preliminary amendment included on the filing date of the application, is published.

Because a preliminary amendment to the claims or abstract in compliance with 37 CFR 1.121(c) or 1.121(b)(2) will include a complete claim listing or replacement abstract, the Office can publish the amended claims or the replacement abstract as submitted in the preliminary amendment without a substitute specification being filed. Applicants should note, however, that there is no need to file a preliminary amendment to the claims on filing. By making the new claim set part of the originally filed specification, applicant may avoid having to pay an application size fee, as both the specification (including the claims) and any preliminary amendment are used in counting the number of pages for purposes of 37 CFR 1.16(s). The claim set submitted should be the set of claims intended to be examined, and when the claims submitted on filing are part of the specification (on sequentially numbered pages of the specification (see 37 CFR 1.52(b)(5))), no status identifiers and no markings showing the changes need to be used.

37 CFR 1.215, Patent application publication, states

(a) The publication of an application under 35 U.S.C. 122(b) shall include a patent application publication. The date of publication shall be indicated on the patent application publication. The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under § 1.125(b), amendments to the abstract under § 1.121(b), amendments to the claims that are reflected in a complete claim listing

> under § 1.121(c), and amendments to the drawings under § 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. Technical preparations for publication of an application generally begin four months prior to the projected date of publication. The patent application publication of an application that has entered the national stage under 35 U.S.C. 371 may also include amendments made during the international stage. See paragraph (c) of this section for publication of an application based upon a copy of the application submitted via the Office electronic filing system.

Finally, 37 CFR 1.125, Substitute specification, states:

> (a) If the number or nature of the amendments or the legibility of the application papers renders it difficult to consider the application, or to arrange the papers for printing or copying, the Office may require the entire specification, including the claims, or any part thereof, be rewritten.

Analysis and conclusion

In this instance, Applicant filed the application and preliminary amendment without filing a substitute specification. As stated in 37 CFR 1.215: "The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under § 1.125(b).

As explained in the MPEP 714.01(e),

> [i]f a preliminary amendment is filed in a format that cannot be included in the publication, the Office of Initial Patent Examination (OIPE) will issue a notice to the applicant requiring the applicant to submit the amendment in a format usable for publication purposes.

The applicable law provides the authority to enact the rules as explained in the manual requiring Applicant to file a substitute specification. Petitioner, a registered practitioner, is tasked with knowledge of the laws and rules of practice. The burden, therefore, is Petitioner's, to demonstrate why he is unable to comply with the rules of practice enacted in accordance with the law.

The petition is dismissed.

As stated in the Notice of Incomplete Reply (Nonprovisional), mailed September 5, 2007, the period for reply remains as set forth in the Notice to File Corrected Application Papers, mailed August 3, 2007.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
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

10 SEP 2007

McGLEW AND TUTTLE, P.C.
Scarborough Station
Scarborough, NY 10510-9227

In re Application of	:	DECISION ON
CECCONI et al	:	
Application No.: 11/776,191	:	
Filing Date: 12 January 2005	:	
Priority Date: NA	:	PETITION UNDER
Attorney's Docket No.: 72653	:	
For: COMPOSITE ABSORBENT MATERIAL ...	:	
ITS MANUFACTURE	:	37 CFR 1.182

This is response to applicants' communication filed on 12 July 2007, which is being treated as petition under 1.182 to change the application type from 35 USC 111(a) to 35 USC 35 USC 371 electronically filed 11 July 2007. The appropriate petition fee of $400.00 set forth in §1.17(h) has been charged to applicant's Depsoit Account No.: 13-0410.

BACKGROUND

On 11 July 2007, applicants electronically filed the aforementioned application as a utility application. The application was processed as filing under 35 U.S.C. §111(a) because it was electronically submitted as a "Utility under 35 USC 111(a)."

On 12 July 2007, applicants electronically filed the instant petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371.

DISCUSSION

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, petitioner has failed to make such a showing. Petitioner is advised that because international application PCT/IT2005/000010 designated the United States, the present application may be treated as a continuation of international application PCT/IT2005/000010, with no loss of priority rights, if the requirements of 35 U.S.C. 120 are met. See MPEP 1895.

Moreover, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
> . . .
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. (Emphasis added.)

As such, any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

At time of filing this application, petitioner had the ability to file the application under 371 by clicking on the 371 radio button in EFS-WEB but that choice was not selected. Rather applicant's submission, the electronic filing as a utility application, did not request treatment under 35 U.S.C. 371, therefore the application was properly treated as a utility application under 35 U.S.C. 111 (a) (37 CFR 1.495(g)). The initial electronic filing was as a utility application.

CONCLUSION

The petition under 37 CFR 1.182 for the reasons noted above is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition is desired, applicant must file a request for reconsideration within a **TWO (2) MONTH** non-extendable time period from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition."

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.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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

Frank Pincelli
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Michael J. Donahue, et. al. :
Application No. 11/776,199 : DECISION ON PETITION
Filed: July 11, 2007 :
Attorney Docket No. 92726F-P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 Missing Parts of Nonprovisional Application (Notice), mailed July 30, 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 October 1, 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 Combined Declaration For Patent and Power of Attorney and $130 surcharge, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

As requested, a total of $1670 ($130 surcharge fee and $1540 petition fee) will be charged to petitioner's deposit account.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Stephen H. Shaw appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Brian Brown
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

VARIAN SEMICONDUCTOR EQUIPMENT ASSC., INC.
35 DORY RD.
GLOUCESTER, MA 01930-2297

Mail Date: 04/20/2010

Applicant	: Christopher R. HATEM	: DECISION ON REQUEST FOR
Patent Number	: 7655932	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/776,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **328** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Muller et al.	:	
Application No. 11/776,247	:	ON PETITION
Filed: July 11, 2007	:	
Attorney Docket No. 42546	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the English translation of the specification and a statement that the translation is accurate, (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 Patent Application Processing for further processing.

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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SEP 10 2008

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of
Armand Abhari et al.
Application No. 11/776,315
Filed: July 11, 2007
Attorney Docket No. WELL0073

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 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 Jeffrey Brill and all attorneys/agents associated with customer number 22862 has been revoked by the assignee of the patent application on July 2, 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: Foley & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5360

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

Duane Morris, LLP
IP Department
30 South 17th Street
Philadelphia, PA 19103-4196

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of :
William H. Merritt et al. :
Application No. 11/776,337 : DECISION ON PETITION
Filed: July 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. E4164-00002 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 9, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by 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.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 3632 for action on the merits commensurate with this decision.

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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FEB 22 2010

OFFICE OF PETITIONS

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of
Santini, et al.
Application No. 11/776,351
Filed: July 11, 2007
Attorney Docket No. **17509-0198**

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102 filed February 9, 2010, to make 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:

(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 Kenya A. McLaughlin, Petitions Attorney, at 571-272-3222.

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 Technology Center 3700 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
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Paper No.

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
O'Neil et al. :
Application No. 11/776,353 : DECISION ON PETITION
Filed: July 11, 2007 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.137(a)
RPS920070098US1 :
Title: METHOD FOR PRE-HEATING :
HIGH POWER DEVICES TO ENABLE :
LOW TEMPERATURE START-UP AND :
OPERATION :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a), submitted on May 13, 2010, seeking the revival of the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 16, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 17, 2009. A notice of abandonment was mailed on January 25, 2010.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

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** (emphasis added).

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).

Analysis

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

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

With this petition, Petitioner has submitted, *inter alia*, an amendment and two statements of facts.

Petitioner has met requirements (1) and (2) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.[1]

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable. Petitioner has alleged that the Office communication was not received and that both the "file jacket and docket records for this application" were searched, and the non-final Office action was not located.[2] Moreover, Petitioner has included a copy of his firm's master docket.

However Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO which **establishes that the docketing system is sufficiently reliable**.

---

1 See Rule 1.137(d).
2 Petition, page 3.

More specifically, Petitioner has included two statements of facts which establish that when an Office action is received, a physical copy of the correspondence is placed into a "physical file folder" that is given to the responsible attorney, and the correspondence is also docketed into an "electronic docketing system."[3] However, the petition does not explain how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner:

- Once the responsible attorney has possession of the "physical file folder" which contains the Office correspondence, what does he or she do with the same, *i.e.* how does he or she make sure that the matter is handled in a timely manner?

- The Filipowsky declaration of facts indicates that the declarant enters "all relevant information about the correspondence into the firm's electronic docketing system."[4] For what purpose is this information input into the electronic docketing system: does this electronic docketing system also generate reports that are distributed to the responsible attorney? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorney?

Second, Petitioner has not provided a **copy of the record(s)** used by the practitioner where the allegedly non-received non-final Office action would have been entered had it been received (other than the aforementioned master docket).

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or

3 Petition, page 3 and Filipowsky declaration of facts, paragraph 3.
4 Filipowsky declaration of facts, paragraph 3.
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

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

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[9] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

7 (571) 273-8300 - please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Edward F. Leonard, et al. :
Application No. 11/776,360 : DECISION ON PETITION
Filed: July 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 20916-004DIV1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 9, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Edward F. Leonard. 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 3761 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,389	07/11/2007	Ronald K. Eyre	70239-00005	6689

58688 7590 01/26/2009
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

EXAMINER	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/26/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WK

Mailed: 1/29/09

In re application of	:	
Eyre et al.	:	DECISION ON
Serial No. 11/776,389	:	PETITION
Filed: July 11, 2007	:	
For: Thermally Stable Diamond Polycrystalline Diamond Constructions	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 11, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that protective order material submitted under MPEP 724.02 be expunged. The decision on the petition is dismissed because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with materiality being defined as any information the examiner considers as being important to a determination of patentability of the claims. During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material".

The petition is **DISMISSED**.

Jacqueline M. Stone

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

Jeffrey S. Bergman
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899

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.
11/776,425	07/11/2007	Ronald K. EYRE	70239-00014	6754

58688 7590 01/26/2009
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

EXAMINER	
ABU ALI, SHUANGYI	
ART UNIT	**PAPER NUMBER**
1793	

MAIL DATE	DELIVERY MODE
01/26/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WK

Mailed: 1/26/09

In re application of	:	
Eyre et al.	:	DECISION ON
Serial No. 11/776,425	:	PETITION
Filed: July 11, 2007	:	
For: Thermally Stable Diamond Polycrystalline Diamond Constructions	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 11, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that protective order material submitted under MPEP 724.02 be expunged. The decision on the petition is dismissed because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with materiality being defined as any information the examiner considers as being important to a determination of patentability of the claims. During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material".

The petition is **DISMISSED**.

Jacqueline M. Stone

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

Jeffrey S. Bergman
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
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NEWMAN & NEWMAN, ATTORNEYS AT LAW, LLP
505 FIFTH AVENUE SOUTH, SUITE 610
SEATTLE, WA 98104

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DEC 31 2009

OFFICE OF PETITIONS

In re Application of :
Marc COLANDO :
Application No. 11/776,439 : DECISION ON PETITION TO
Filed: July 11, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **1483-0002** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 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 Randall Moeller 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 sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed September 15, 2009 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: **MARC COLANDO**
14011 ALPINE WAY NW
SEATTLE, WA 98177

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Arkady G. Zilberman :
Application No. 11/776,440 : DECISION ON PETITION
Filed: July 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. ZIL1403-004C : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 14, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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OFFICE OF PETITIONS

In re Application of :
STEINBERGER, Ned :
Application No. 11/776,444 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. **N3876-NONPROV** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must 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 Lucian W. Beavers on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NED STEINBERGER**
42 HILTOP ROAD
NOBLEBORO, MAINE 04555

cc: **MATTHEW W. SIEGAL**
STROOCK STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of
STEINBERGER, Ned
Application No. 11/776,444
Filed: July 11, 2007
Attorney Docket No. **001701/0092**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 23, 2008.

The request is **APPROVED**.

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

The request was signed by Matthew Siegal on behalf of all attorneys of record who are associated with customer No. 26610. All attorneys/agents associated with the Customer Number 26610 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: **NED STEINBERGER**
42 HILLTOP ROAD
NOBLEBORRO ME 04555

cc: **GIBSON GUITAR CORP.**
309 PLUS PARK BOULEVARD
NASHVILLE TN 37217

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BATES & BATES, LLC
1270 CAROLINE STREET
STE. D-120-393
ATLANTA GA 30307

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JAN 25 2010

In re Application of :
Ned STEINBERGER :
Application No. 11/776,444 : DECISION ON PETITION
Filed: July 11, 2007 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of February 17, 2009 is accepted as having been unintentionally delayed.

The power of attorney filed November 16, 2009 is accepted and has been made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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In re Application of :
Wahl et al : DECISION GRANTING
Appl. No. 11/776,451 : PETITION UNDER
Filed: July 11, 2007 : 37 CFR 1.183
:

This is a decision on the October 9, 2008 petition filed under 37 CFR 37 CFR 1.183 requesting suspension or waiver of the regulations 37 CFR §§1.125(d) and 37 CFR 1.173(a)(1)to accept a substitute specification in the reissue application.

The petition is **GRANTED**.

BACKGROUND

1. U.S. Patent No. 7,156,751 (the '751 patent) issued to, Wahl and Anderson on January 2, 2007.

2. A broadening reissue application (the present application) was filed for the '751 patent on July 11, 2007, and it was assigned application number 11/776,451.

3. During the prosecution of the application, the Office required a substitute specification.

4. On October 9, 2008, applicant filed the present petition under 37 CFR 1.183, requesting suspension or waiver of the 37 CFR §§ 1.125(d) and 1.173(a)(1) to submit a substitute specification.

5. The petition is accompanied by a substitute specification. It is for this substitute specification that the petition requests acceptance, via suspension or waiver of the regulations.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on October 9, 2008. Accordingly, this petition is properly a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on October 9, 2008 is not a copy of the printed patent, in double column format. Accordingly, this petition is also properly a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

Pursuant to MPEP 1411, extensive changes to the specification including certificate of correction changes may require a substitute specification.

Pursuant to MPEP 1411.01, "[f]or the clean copy of the specification to be entered as a substitute specification, the reissue applicant must file a grantable petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1). The examiner's requirement for the clean copy will generally serve as sufficient basis for granting the petition."

In the present instance, it has been confirmed that the examiner has required a clean copy of the specification, and to permit compliance with that requirement, and based on the facts and circumstances of this application, the substitute specification is accepted.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. Jurisdiction over this application is being forwarded to Art Unit 3711 for review of the substitute specification submitted with the petition.[1]

3. Please direct any questions related to this decision to Petitions Attorney Charlema R. Grant, at (571) 272-3215.

/Kenneth M. Schor/
Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

[1] This decision takes no position on the propriety of the substitute spec, aside from the signing of the named inventors. Any issues raised by the declaration will be addressed by the examiner in the next Office action.

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WHITTIER CA 90602

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AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of :
THOMAS, Harold J. :
Application No. 11/776,455 : DECISION ON PETITION
Filed: July 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **138/009** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 11, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the affidavit of inventor Harold J. Thomas, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

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

The application is being forwarded to the Office of Initial Patent Examination for processing. This application will be accord "special" status when the pre-examination processing is complete.

Monica A. Graves
Petitions Examiner
Office of Petitions

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GERALD J. IWANEJKO, JR.
229 HICKORY HILL DRIVE
VOLANT, PA 16156

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SEP 02 2008

In re Application of :
ASHOK, Rohith K. et al. :
Application No. 11/776,531 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. **RSW920070098US1** : FROM RECORD
:

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to GERALD J. IWANEJKO, JR. has been revoked by the assignee of the patent application on June 03, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LEE LAW, PLLC**
IBM CUSTOMER NUMBER
P.O. BOX 189
PITTSBORO NC 27312

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WASHINGTON UNIVERSITY-SNR
C/O SONNENSCHEIN NATH & ROSENTHAL L.L.P
P.O. BOX 061080
WACKER DRIVE STATION , WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Robert H. Mach	: DECISION ON REQUEST FOR
Patent Number	: 7612085	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/776,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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WASHINGTON UNIVERSITY-SNR
C/O SONNENSCHEIN NATH & ROSENTHAL L.L.P
P.O. BOX 061080
WACKER DRIVE STATION , WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 05/18/2010

Applicant : Robert H. Mach
Patent Number : 7612085
Issue Date : 11/03/2009
Application No: 11/776,533
Filed : 07/11/2007

: 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 **17** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

In re Application of
BELL, BERGERON, AND CHAPPELL
Application No. 11/776,537
Filed: 07/11/2007
Attorney Docket No. IVGN 629
Title: PROTEOME STANDARDS FOR MASS SPECTROMETRY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 29, 2008. Applicants obtained an extension of time for response within the fifth month. The petition is filed timely.

The petition is **dismissed**.

Applicants are 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 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).

Applicants request that the Office accept the declaration on petition without the signature of joint inventor, Thomas Chappell. Specifically, in her Statement of Facts, Nancy Overly-Walker declared:

> On or about February 14, 2008, I assembled a Declaration, copy of which is attached, to be sent to Thomas Chappell at 1011 Oriole Way, San Marcos, CA 92078, the last known address, containing instructions to sign the enclosed Declaration. The Declaration was sent to Dr. Chappell via email on February 14, 2008, as can be seen by the attached email, and a copy of the Declaration was also sent via DHL courier to Dr. Chappell, a copy of which the delivery receipt is also attached. To date, I have not received a response from Dr. Chappell or an executed Declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with

35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lacks item (1).

As to item (1), applicants have not provided sufficient proof that the non-signing inventor was sent or presented with a complete copy of the application as filed (specification, including the claims, drawings, if any, and the declaration). See MPEP 409.03(d). It appears that applicants only mailed a copy of the declaration and assignment to the non-signing inventor. Additionally, only two weeks has passed since requesting the inventor's signature on the declaration and assignment papers.

Pursuant to MPEP 409.03(d)(II),

> 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 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. 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 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

In any renewed petition, applicants must demonstrate that they made a bona-fide attempt to present the non-signing inventor with a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) for the present application. Applicants may show that a copy of the application was mailed or presented to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the events. If the non-signing inventor refuses to execute the declaration in writing, applicants must submit a copy of that written refusal with any renewed petition. Likewise, if the non-signing inventor makes an oral refusal to a person, then that individual must provide details of the refusal in an affidavit or declaration of fact. If the non-signing inventor refuses to accept delivery of the papers or the inventor's conduct constitutes a refusal to join in the application, applicants will have provided proof of refusal to sign the declaration.

Where inability to find or reach the non-signing 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 to locate the inventor. If attempts to obtain a forwarding address or to locate non-signing inventor by other means such as an Internet search fail,

then applicants will have provided the necessary proof that the inventor cannot be reached after diligent effort.

The $200.00 petition fee will be charged to the Deposit Account as authorized.

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) 272-8300
Attn: Office of Petitions

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

Correspondence relating to this decision may also be submitted via the Electronic Filing System of the USPTO.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
BELL, BERGERON, AND CHAPPELL	:	DECISION ACCORDING STATUS
Application No. 11/776,537	:	UNDER 37 CFR 1.47(a)
Filed: 07/11/2007	:	
Attorney Docket No. IVGN 629	:	
Title: PROTEOME STANDARDS FOR MASS SPECTROMETRY	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed Monday, October 6, 2008. Petitioners obtained an extension of time for response within the third month. Accordingly, the petition is filed timely.

The petition is **GRANTED**.

Petitioners have shown that they made a bona fide attempt to provide the non-signing inventor with a complete copy of the application papers by certified mail and electronic mail. However, the non-signing inventor has not responded to the request to sign the declaration and join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and are in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $200.00 fee for filing the present renewed petition is unnecessary and will be refunded.

The matter is being referred to Technology Center AU 1657 for examination in due course.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Dr. Thomas G. Chappell
1011 Oriole Way
San Marcos, CA 92078

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NOV 1 4 2008

OFFICE OF PETITIONS

In re Application of :
BELL, BERGERON, AND CHAPPELL :
Application No. 11/776,537 : LETTER
Filed: 07/11/2007 :
Attorney Docket No. IVGN 629 :
Title: PROTEOME STANDARDS FOR :
MASS SPECTROMETRY :

Dear Dr. Chappell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. Requests for information regarding your application should be directed to the File Information Unit at 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).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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NEIL J. COIG
2355 DRUSILLA LANE
BATON ROUGE LA 70809

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
DIZON, David M. :
Application No. 11/776,540 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. **10492.002** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 02, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because the documents did not include any signatures. All documents must be signed and dated.

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

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NEIL J. COIG
2355 DRUSILLA LANE
BATON ROUGE LA 70809

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
DIZON, David :
Application No. 11/776,540 : DECISION ON PETITION
Filed: July 11, 2007 : TO WITHDRAW
Attorney Docket No. **10492.002** : 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 May 21, 2009.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor David M. Dizon at the address indicated below.

There is an outstanding Office action mailed February 02, 2009 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVID M. DIZON**
11110 AUBURN WOODS
SAN ANTONIO, TX 78249

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KLONY LIEBERMAN
LUMIO INC.
5 NAHUM HEFZADI ST.
JERUSALEM 95484 IL ISRAEL

In re Application of:
LIEBERMAN, KLONY et al
Serial No.: 11/776,563
Filed: July 12, 2007

Title: **ILLUMINATION FOR OPTICAL TOUCH PANEL**

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 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 **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. Howêver, the petition fails to comply with conditions set forth under section II. items 6.3 and 6.5.

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 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 claim and no separate reasons for patentability are argued in regard to dependent claims 2-18, it is presumed that petitioner believes that all claims not separately argued for patentability 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.**

Regarding the requirement in item 6.5 above, the "Accelerated Examination Support Document", section 9(e) is deficient because it fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of the specification. Petitioner provides a broad statement that support is shown for each claim and identifies paragraphs, without providing any indication where each specific claim limitation finds support in the specification for each claim. Clarification is required.

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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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KLONY LIEBERMAN
LUMIO INC.
5 NAHUM HEFZADI ST.
JERUSALEM 95484 IL ISRAEL

In re Application of:
LIEBERMAN, KLONY, et al.
Serial No.: 11/776,563
Filed: July 12, 2007

Title: **ILLUMINATION FOR OPTICAL TOUCH PANEL**

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 August 24, 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 August 9, 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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Koji Akita, et al.	:	
Application No. 11/776,576	:	DECISION GRANTING PETITION
Filed: July 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 311791US2SRDCONT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2464 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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SEP 12 2008

TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: TAGAMI et al.
Application No. 11/776,590
Filed: July 12, 2007
For: TRANSACTION TAKEOVER SYSTEM

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 April 23, 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

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.
11/776,590	07/12/2007	Masatoshi Tagami	JP920060022US1	7061

27431 7590 09/15/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
BHATIA, AJAY M	
ART UNIT	**PAPER NUMBER**
2145	

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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LILLING & LILLING PLLC
PO BOX 435
JERUSALEM, ISRAEL 91003

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Yakov Bar Or et al.	:	
Application No. 11/776,645	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No S1142U	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed November 3, 2008.

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

A review of the file record indicates that the power of attorney to Lilling & Llilling PLLC has been revoked by the assignee of the patent application on December 15, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

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

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
MITCHELL WORTZMAN :
Application No. 11/776,669 : DECISION ON PETITION
Filed: July 12, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. MEDCI.034C1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), August 24, 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 Bhikhubhai G. Patel's, driver's license 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 1614 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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JUL 26 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS, MN 55402

In re Application of:
Michael J. GEILE, et al.
Serial No.: 11/776,673
Filed: July 12, 2007

Title: **CONTROL MODULATION 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 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 **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 and 5.3.

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, 307, 516, 519, 525 and 526.

Regarding the requirement in item 6.3 above, petitioner has argued the patentability of the broadest, independent claims. Since no separate reasons for patentability are argued in regard to dependent claims 2-4, 6 and 8-13, it is presumed that petitioner believes that these dependent claims stand or fall together with the independent claims from which they depend. 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.

Furthrmore, 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/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

In re Application of:
Michael J. Geile, et al.
Serial No.: 11/776,673
Filed: July 12, 2007

Title: **REMOTE BAND SCANNING IN MULTIPOINT-TO-POINT ORTHOGONAL FREQUENCY DIVISION MULITIPLEXING COMMUNICATION**

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 August 9, 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 Supplemental Preexamination Ssearch Document filed with the request for reconsideration on August 9, 2007.

All of the requirements to correct the deficiencies outlined in the petition decision mailed July 26, 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, and 8-13. Therefore, it is presumed that petitioner believes that these claims stand or fall together with the 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
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
MITCHELL WORTZMAN et al. :
Application No. 11/776,676 : DECISION ON PETITION
Filed: July 12, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **MEDCI.034C2** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 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 Bhiku Patel's driver's license and birth certificate 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 1617 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Babak Akhlaghi
McDermott Will & Emery
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al.	:	
Application No. 11/776,683	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. 07977-015006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **APPROVED**.

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

The request was signed by Babak Akhlaghi. Babak Akhlaghi 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.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson P.C.**
P.O. Box 1022
Minneapolis, MN 55440-1022

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Peak et al.	:	DECISION ON PETITION
Application No. 11/776,709	:	TO WITHDRAW
Filed: July 12, 2007	:	FROM RECORD
Attorney Docket No. 28472-0006	:	

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 14, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Proskauer Rose LLP 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 Proskauer Rose LLP not having power of attorney. See MPEP §§ 601.03 and 405.

Further, a review of USPTO records reveals that the Change of Address filed July 12, 2007 was improperly recorded as a Power of Attorney by the USPTO. Accordingly, petitioner is currently designated only as the Correspondence Address. The current power of attorney in the above-identified application was filed July 12, 2007.

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 March 24, 2010 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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OFFICE OF PETITIONS

In re Application of :
Mitchell Wortzman, et al. :
Application No. 11/776,711 : DECISION ON PETITION
Filed: July 12, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. MEDCI.034C3 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 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 Kuljit Bhatia's drivers license. 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 1617 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Kenny C. Gross	: DECISION ON REQUEST FOR
Patent Number	: 7661316	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/776,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2007	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,717	07/12/2007	Zea-Jong KANG	0202-0017	7278

7590 01/07/2009

Jefferson IP Law, LLP
1730 M Street, NW
Suite 807
Washington, DC 20036

EXAMINER	
ETIENNE, ARIO	

ART UNIT	PAPER NUMBER
2457	

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.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/07/2009 0030065307

Credit Card Refund Total: $1150.00

VISA....: XXXXXXXXXXXX4899

Adjustment date: 01/07/2009 NFARMER
07/12/2007 INTEFSW 00006382 11776717
02 FC:1111 -500.00 OP
04 FC:1202 -250.00 OP
05 FC:1201 -400.00 OP

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OFFICE OF PETITIONS

FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

In re Application of
Paul Michael Deniston et al
Application No. 11/776,720
Filed: July 12, 2007
Attorney Docket No. 81156791

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 March 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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.

[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 3741 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075-1238

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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS, MN 55402

In re Application of:
Michael J. GEILE et al
Serial No.: 11/776,735
Filed: July 12, 2007

Title: **METHODS AND SYSTEMS FOR TONE HOPPING**

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 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 **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 and 483; 714/707 and 708.

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 fails to provide a detailed explanation of how each of the claims are patentable over the Coiffe reference. cited in the Information Disclosure Statement. Petitioner also 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 dependent claims 2 and 5, it is presumed that petitioner believes that all claims not separately argued for patentability 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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

In re Application of:
Michael J. Geile, et al.
Serial No.: 11/776,735
Filed: July 12, 2007

Title: **METHODS AND SYSTEMS FOR TONE HOPPING**

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 August 24, 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 Supplemental Examination Support Document filed on July 26, 2007.

All of the requirements to correct the deficiencies outlined in the petition decision mailed August 9, 2007 have been met.

It should be noted that no separate reasons for patentability have been argued in regard to dependent claims 2 and 5. Therefore, it is presumed that petitioner believes that these claims stand or fall together with the 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 Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

6/2/09

Patent No. :7443784
Inventor(s) :Geile et al.
Issued : 10/28/2008
Title : METHODS AND SYSTEMS FOR TONE HOPPING
Atty.doc./File No.

Request for Certificates of Correction

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

Inspection of the application for the patent reveals item [60], is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

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

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

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

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100519

DATE : May 19, 2010

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7443784

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:

/Dwayne Bost/
Supervisory Patent Examiner.Art Unit 2617

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OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of :
Masashi Murakita :
Application No. 11/776,765 : ON PETITION
Filed: July 12, 2007 :
Attorney Docket No. P32179

This is a decision on the petition, filed June 3, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 6, 2008 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 2862 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

In re Application of :

STEINBERGER, Ned :
Application No. 11/776,767 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. **N3675A-NONPROV** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 Lucian Beavers on behalf of all attorneys of record who are associated with customer No. 23456. All attorneys/agents associated with the Customer Number 23456 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **NED STEINBERGER**
42 HILLTOP ROAD
NOBLEBORO, ME 04555

cc: **MATTHEW W. SIEGAL**
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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BATES & BATES,LLC
SUITE D-120-393
1270 CAROLINE STREET
ATLANTA GA 30307

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of
Ned Steinberger
Application No. 11/776,767
Filed: July 12, 2007
Attorney Docket No.: **GIB-0003**

ON PETITION

This is a decision on the petition filed June 24, 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 August 13, 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 November 14, 2008. Accordingly, a Notice of Abandonment was mailed April 29, 2009.

This matter is being referred to Technology Center 2837 for appropriate action on the amendment filed June 24, 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

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,773	07/12/2007	Tatsuya ISHII	132455	7377

25944 7590 12/22/2008

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
DICKEY, THOMAS L	
ART UNIT	PAPER NUMBER
2826	

MAIL DATE	DELIVERY MODE
12/22/2008	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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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of
Tatsuya Ishii
Application No.: 11/776,773
Filed: 12 July 2007
Attorney Docket No.: Q91630
For: SUBSTRATE FOR ELECTRO-OPTICAL DEVICE, ELECTRO-OPTICAL DEVICE, AND ELECTRONIC APPARATUS

: DECISION ON REQUEST TO
: PARTICIPATE IN THE 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 10 December 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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 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 obtain a copy from the 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) 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;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 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 is assessed as follows:

Conditions 1-7 are considered to have been met. Therefore, 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 Darren Schuberg at 571 272 2044.

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.

Darren Schuberg
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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Waddey & Patterson, P.C.
1600 Division Street, Suite 500
Nashville, TN 37203

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OFFICE OF PETITIONS

In re Application of	:	
Ned Steinberger	:	
Application No. 11/776,783	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. 001701/0094	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

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

A review of the file record indicates that the power of attorney to Waddy & Patterson, P.C. has been revoked by the assignee of the patent application on May 16, 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: **Stroock & Stroock & Lavan LLP**
180 Maiden Lane
New York, NY 10038

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

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MAY 27 2008

In re Application of	:	
Ned STEINBERGER	:	
Application No. 11/776,797	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. N3675C-NONPROV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Waddey & Patterson, P.C., has been revoked by the assignee of the patent application on May 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MATHEW W. SIEGAL
STROOCK & STROOCK
& LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/776,797	07/12/2007	Ned Steinberger	N3675C-NONPROV

CONFIRMATION NO. 7415

POA ACCEPTANCE LETTER

26610
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

Date Mailed: 05/27/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2008.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/776,797	07/12/2007	Ned Steinberger	N3675C-NONPROV

CONFIRMATION NO. 7415

POWER OF ATTORNEY NOTICE

23456
WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

Date Mailed: 05/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2008.

- 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).

/dcgoodwyn/

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

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Greg Magnell	: DECISION ON REQUEST FOR
Patent Number	: 7647752	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/776,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2007	: 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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ALVIN R. WIRTHLIN
1828 EAST 1580 SOUTH
SPANISH FORK, UT 84660

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Clinton Wilcox :
Application No. 11/776,821 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. P1035US00 : FROM RECORD
:

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 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Alvin R. Wirthlin has been revoked by the applicant of the patent application on July 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.

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

cc: CLINTON "BUD" WILCOX
13395 BASS TRAIL
GRASS VALLEY, CA 95945

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AUG 07 2007

DIRECTOR'S OFFICE
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.: 11/776,828
Filed: July 12, 2007

Title: **METHOD AND SYSTEM FOR FORWARD-LOOKING TONE ALLOCATION**

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 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 **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.

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: 370/204, 208, 307, 482 and 484.

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 Cioffi and Bingham et al. references 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 Cioffi and Bingham 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.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/776,828
Filed: July 12, 2007

Title: **METHOD AND SYSTEM FOR FORWARD-LOOKING TONE ALLOCATION**

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 August 24, 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 August 7, 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
Technology Center 2600
Communications

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

9/2/09

In re Application of	:
WATANABE, SHINJI	: DECISION ON REQUEST TO
Application No. 11/776,842	: PARTICIPATE IN PATENT
Filed: July 12, 2007	: PROSECUTION HIGHWAY
Attorney Docket No. 03560.134481.	: PROGRAM AND PETITION
For: MEDICINE DISCHARGE DEVICE AND CARTRIDGE MOUNTABLE THERETO	: TO MAKE SPECIAL UNDER : 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 27, 2009, to make the above-identified application special.

The request is **GRANTED**.

Discussion

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, 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 obtain a copy from the 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) 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 a copy of 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 above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 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 pilot 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. Receipt of the requested document is acknowledged and has been entered. 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.

This application is being forwarded to the examiner for action on the merits commensurate with this decision. Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856. All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner Justine Yu, Art Unit 3771, at 571-272-4835 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

The petition make special is GRANTED.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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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.
11/776,867	07/12/2007	Robert P. Morris	I485/US	7541

49277 7590 02/25/2010

SCENERA RESEARCH, LLC
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CARY, NC 27518

EXAMINER	
HERNDON, HEATHER R	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/25/2010	PAPER

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

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

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SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27511

In re Application of:
MORRIS, Robert
Application No. 11/776,867
Filed: July 12, 2007
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING A BROWSING MODE ASSOCIATION OF A LINK WITH BROWSED CONTENT

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 13, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on January 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from January 13, 2010. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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OFFICE OF PETITIONS

In re Application of	:	
Borade et al.	:	
Application Number: 11/776882	:	DECISION ON PETITION
Filing Date: 07/12/2007	:	
Attorney Docket Number: 198952-1	:	

This is a decision on the "PETITION TO ASSIGN FILING DATE PURSUANT TO 37 C.F.R. § 1.17," filed on October 9, 2008, which is treated as a petition under 37 CFR 1.53(e), to accord the above-identified application a filing date of July 12, 2007.

The petition is **GRANTED**.

On July 12, 2007, the application was filed. The original application papers comprised, *inter alia*, 34 pages of specification (including seven (7) pages containing claims) and two (2) sheets of drawings.

On July 27, 2007, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of July 12, 2007, but that an executed oath or declaration, a surcharge for its late filing, and replacement drawings in accordance with 37 CFR 1.84 and 37 CFR 1.121(d) are required.

On September 13, 2007, an executed declaration and the surcharge were filed.

On September 21, 2007, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that the reply filed on September 13, 2007, was incomplete in that the replacement drawings were not included. The period for reply remained as set forth in the Notice to File Missing Parts mailed on July 27, 2007.

On October 1, 2007, replacement drawings were filed, along with a petition for a one (1) month extension of time.

On October 5, 2007, an Updated Filing Receipt was mailed, stating that the filing date was September 13, 2007.

On October 9, 2008, the subject petition was filed. Petitioners assert that the application as filed is entitled to a filing date of July 12, 2007.

Upon review, petitioner's contention is well taken. A review of Office records reveals that the application papers as filed included a complete specification and drawings. Accordingly, the application is entitled to a filing date of July 12, 2007.

As the showing of record is that the filing date of the application was changed as a result of an Office mistake, no petition fee is due. The fee will be refunded to counsel's deposit account.

The application will be referred to the Office of Patent Application Processing for further processing with the original filing date of July 12, 2007, and issuance of a corrected Filing Receipt.

The application is being returned to the Office of Patent Application Processing for reprocessing with a filing date of **July 12, 2007**, using the application papers filed on that date, and for issuance of a corrected Filing Receipt.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Johannes Cornelis Dejong
Application No. 11/776,899
Filed: July 12, 2007
Attorney Docket No. **TS1795 (US)**

ON PETITION

This is a decision on the petition filed May 8, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned April 3, 2009 for failure to timely pay the issue fee on or before April 2, 2009. Accordingly, a Notice of Abandonment was mailed April 29, 2009.

The issue fee in the amount of $1510.00, petition fee in the amount of $1620.00 and publication fee in the amount of $300 have been charged to deposit account no. 19-1800. All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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OFFICE OF PETITIONS

In re Application of
Garner, et al.
Application No. 11/776,904
Filed: July 12, 2007
Attorney Docket No. PI1535USNA
For: HYDROCYANATION OF 2-PENTENENITRILE

ON PETITION

This is a decision on petition, filed May 12, 2010, requesting revival of the above-identified application.

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

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

This application was held abandoned for failure to timely pay the issue fee and publication fee on or before March 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 7, 2009. The date of abandonment is March 9, 2010. The Notice was available for viewing on December 7, 2009. A Notice of Abandonment was issued on March 24, 2010.

Petitioners assert that the Notice dated December 7, 2009 not received, docketed or entered into their application file. Therefore, petitioners assert the delay in responding to the Notice was unavoidable.

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.; (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 does not satisfy requirements (1) and (3) above.

With respect to (1): While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. *See* Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

The RCE filed with the present petition is an insufficient reply on its own. Applicants must pay the issue fee and the publication fee. These fees may be reapplied when the application is allowed again, if applicants request it.

With respect to (3): 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 of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term '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"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Applicants' representative is a participant in the Office's E-Notification program, wherein applicant's representative receives a once daily e-mail notification of all applications in which outgoing Office correspondence has been issued. A review of the record indicates that e-mail notification of the Notice of Allowance and Fee(s) Due was sent on December 7, 2009.

The declaration supporting the petition states that declarant could not find any evidence that the Notice had been received, had been docketed, or had been entered into representative's application file.

However, Office databases show that email notification was sent on December 7, 2009 and that applicants' representative accessed and reviewed the correspondence on December 7, 2009. In short, applicants' representative viewed the Notice in Private PAIR on December 7, 2009, the same day as the e-notification.

The petition under 37 CFR 1.137(a) is dismissed.

ALTERNATIVE VENUE

Petitioners should strongly consider filing a petition under 37 CFR 1.137(b).

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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX:	(571) 273-8300 – ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

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MAY 05 2010

OFFICE OF PETITIONS

In re Application of: Tigran KHALAPYAN
Application No. 11/776,915
Filed: July 12, 2007
Attorney Docket No. 24826-0002-U1

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 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 30, 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 October 1, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination and the fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of June 30, 2009 is accepted as having been unintentionally delayed.

Since the above-identified application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer under 37 CFR 1.137(d) is not required and the terminal disclaimer fee of $70.00 will be credited to petitioner's deposit account.

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 $555.00 extension of time fee submitted with the petition on February 19, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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.

Application No. 10/121,627

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3738 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

CC: Courtney J. Miller
21 E. State Street, Suite 1700
Columbus, Ohio 43215

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 06/17/2010

Applicant	: David E. HALASZ	: DECISION ON REQUEST FOR
Patent Number	: 7634536	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/776,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas TX 75202

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Wakelam, et al. :
Filed: July 12, 2007 : ON PETITION
Application No. 11/776,923 :
Atty. Dkt. No.: 28207.39 :

This decision is in response to the petition under 37 CFR 1.57(a), filed August 29, 2007, in response to the Notice of Incomplete Nonprovisional Application (Notice), mailed July 26, 2007. Additionally, this matter is, *sua sponte*, properly treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of July 12, 2007.

The application was received July 12, 2007. The Notice mailed August 29, 2007 indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings, as required per 35 USC 113.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee). The Notice set a two month non-extendible period of time for reply.

DECISION UNDER 37 CFR 1.53(e)

In accordance with 37 CFR 1.53(e)(2), any request for review of a notification pursuant to 37 CFR 1.53(e)(1), or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a

drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of July 12, 2007.

Thus, the instant petition is unnecessary as the instant application was otherwise entitled to a filing date under 37 CFR 1.53(b). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on July 12, 2007, without drawings as part of the original disclosure.

In view thereof, the petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of July 12, 2007 is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.57

The provisions of 37 CFR 1.57(a) provide that "if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the

claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s)."

In accordance with 37 CFR 1.57(a)(3), "[i]f an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f)."

As the instant application is entitled to a filing date, petition under 37 CFR 1.57 is not necessary.

Accordingly, the petition under 37 CFR 1.57(a) is hereby **DISMISSED AS MOOT**.

If petitioners seek to have drawings considered in the instant application, petitioners are advised to promptly submit an amendment to this effect in accordance with the provisions set forth at 37 CFR 1.57(a)(1) prior to the issuance of the first Office action on the merits to avoid delays in prosecution. While petitioners set forth an intent to rely upon the provisions of 37 CFR 1.57, the intent without an actual amendment to the specification is not sufficient to address the matter of admission of the drawings.

No fee is due in connection with this matter. Petitioners may request a refund of the $400.00 petition fee previously submitted by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of July 12, 2007 using only those application papers present on that date.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Charles Pearson
Director
Office of Petitions

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CHICAGO IL 60610

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OCT 3 0 2008

OFFICE OF PETITIONS

In re Application of
John Wesley Moss et al
Application No. 11/776,961
Filed: July 12, 2007
Attorney Docket No. 08285-00929

: 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 October 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
John Wesley Moss et al :
Application No. 11/776,961 : DECISION GRANTING PETITION
Filed: July 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08285-00929 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
John Wesley et al
Application No. 11/776,961
Filed: July 12, 2007
Attorney Docket No. 08285-00929

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 12, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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 2614 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/776,961	07/12/2007	2614	1500	08285-00929	11	4

CONFIRMATION NO. 7710

757
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P.O. BOX 10395
CHICAGO, IL 60610

CORRECTED FILING RECEIPT

Date Mailed: 12/18/2008

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

Applicant(s)

John Wesley Moss, Lake Zurich, IL;
Dianna Inara Tiliks; Elk Grove, IL;
Susanne Marie Crockett, Buffalo Grove, IL;
Carol Shifrin Gruchala, Naperville, IL;
Nancy Ann Book, Naperville, IL;

Assignment For Published Patent Application

AT&T Knowledge Ventures, L.P.

Power of Attorney: The patent practitioners associated with Customer Number 00757

Domestic Priority data as claimed by applicant

This application is a CON of 10/931,283 08/31/2004 PAT 7,272,219
which is a CON of 10/036,950 12/21/2001 PAT 6,807,267

Foreign Applications

If Required, Foreign Filing License Granted: 07/31/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/776,961**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR PROVIDING ENHANCED CALLER IDENTIFICATION INFORMATION FOR SUBSCRIBERS THAT INTERFACE VIA PRIVATE TRUNK GROUPS

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT & T LEGAL DEPARTMENT - BHGL
ATTN: PATENT DOCKETING ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Moss et al. :
Application No. 11/776,961 :
Filed: July 12, 2007 :
Attorney Docket No. 08285-00929 :

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 13, 2009.

The request is **NOT APPROVED**.

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

The request was signed by Scott W. Brim on behalf of all practitioners of record associated with Customer Number 83808. The request cannot be approved since all practitioners of record were not appointed by Customer Number 83808. Accordingly, any subsequent request must reflect the withdrawal of practitioners in the same manner as appointed power of attorney.

Further, Petitioner should note that the Office will only accept correspondence address changes to the most current address information provided the assignee of the entire interest who properly became of record under 37 CFR 3.71, 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 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 will be accepted.

The correspondence address will remain unchanged since the address provided with the petition herein is the same as the current address of record.

There are no outstanding Office actions that require a reply from the applicant.

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) 272-6059. 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: SCOTT W. BRIM
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,963	07/12/2007	Jin Sang HWANG	MUH-0005	7712

7590 06/04/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
SCHUBERG, LAURA J	

ART UNIT	PAPER NUMBER
1657	

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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 06/04/2009 NFARMER
07713/2007 INTEFSW 00001439 061130 11776963
02 FC:1111 500.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARMAN – BRINKS HOFER
CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
Brian Stecher :
Application No. 11/776,970 : DECISION GRANTING PETITION
Filed: July 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11336-1635 (P07100US) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,992	07/12/2007	Naomasa OKIMURA	Q102675	7769

65565 7590 07/07/2009

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER	
BARRON JR, GILBERTO	
ART UNIT	PAPER NUMBER
2432	
MAIL DATE	DELIVERY MODE
07/07/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Sughrue Mion, PLLC - 265550
2100 Pennsylvania Ave. NW
Washington, DC 20037-3213

In re Application of: **OKIMURA** et al.
Application No. 11/776,992
Filed: July 12, 2007

For: **ELECTRONIC EQUIPMENT AND IMAGE FORMING APPARATUS**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

MAILED

JUL 07 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), June 18, 2009, to make the above-identified application special.

The petition is **DISMISSED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 failed:

1) item (3) above, because claim 8 in the US application do not correspond sufficiently to claim 8 in the JPO patent.

Claims 8-12 of the instant application differ in scope from the corresponding claims 8-12, respectively in the Japanese allowed application, in that claim 8 of the instant application recites "[the] electronic equipment", whereas the corresponding limitation in the translated Japanese claim 8 recites "[the] image forming apparatus". Similar problem is also found in claims 9-12.

Applicant is requested to review all the claims in view of the comments above to make sure that all the claims are in compliance with guidelines set forth above for a grantable petition to make special.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Responses must be submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Ricky Ngo at 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.

/Ricky Ngo/

_____

Ricky Ngo
Supervisory Patent Examiner, Technology Center 2400
571-272-3139

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Docket No: Q102675
Naomasa OKIMURA, et al.	
Appln. No.: 11/776,992	Group Art Unit: 2432
Confirmation No.: 7769	Examiner: Gilberto Barron Jr.
Filed: July 12, 2007	

For: ELECTRONIC EQUIPMENT AND IMAGE FORMING APPARATUS

REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Request to Participate in Patent Prosecution Highway Program under 37 C.F.R. § 1.102(d) mailed July 7, 2009, Applicant respectfully requests reconsideration of the decision based on the following comments.

The PTO's Decision has alleged that Applicant's Request to Participate in Patent Prosecution Highway Program and Petition was deficient because "claim 8 in the US Application do[es] not correspond sufficiently to claim 8 in the JPO patent," thus not complying with the third requirement wherein "[a]ll 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)." In particular, the Decision points out that claims 8-12 of the present

application recite "[the] electronic equipment," whereas the corresponding claims 8-12 of the Japanese application recite "[the] image forming apparatus."

Applicant respectfully directs the PTO's attention to the attached Preliminary Amendment correcting the deficiency. In the Preliminary Amendment, claims 8-12 are amended to be of similar scope to the allowed claims 8-12 of the counterpart Japanese application, JP 2008-35682. Specifically, claims 8-12 are amended to recite an "image forming apparatus" instead of "electronic equipment."

In addition, Applicant has paid the Petition Fee under 37 C.F.R. § 1.17(h) of $130.00 via the PTO's Electronic Filing System (EFS). Also, the USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880.

In view of the remarks above and the newly submitted Preliminary Amendment, Applicant respectfully requests the PTO to reconsider Applicant's Request to Participate in Patent Prosecution Highway Program.

Respectfully submitted,

/Suzanne C. Walts/

Suzanne C. Walts
Registration No. 60,831

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON DC SUGHRUE/265550
65565
CUSTOMER NUMBER

Date: July 30, 2009

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.
11/776,992	07/12/2007	Naomasa OKIMURA	Q102675	7769

65565 7590 08/27/2009
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER	
BARRON JR, GILBERTO	
ART UNIT	**PAPER NUMBER**
2432	

MAIL DATE	DELIVERY MODE
08/27/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
AUG 27 2009
DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

In re Application of: Naomasa **Okimura** et al.
Application No. 11/776,992
Filed: July 12, 2007

For: **ELECTRONIC EQUIPMENT AND IMAGE FORMING APPARATUS**

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 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

21 DEC 2007

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

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

In re Application of	:	
MEIJER	:	DECISION ON PETITION
Application No.: 11/777,007	:	
Filing Date: 12 July 2007	:	UNDER 37 CFR 1.181
Atty. Docket No.: 069818-8400	:	
For: PROTECTIVE COMPOSITION	:	

This is a decision on applicant's "Petition For Transfer of Application to US National Phase Processing And Request For Notice of Incomplete Nonprovisional Application be Vacated Under 37 C.F.R. § 1.181" filed on 18 December 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 16 January 2006, applicant filed international application PCT/NL06/50011, which claimed priority of an earlier application filed 14 January 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 April 2006. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 July 2007.

On 12 July 2007, applicant electronically filed a utility patent application in the United States via EFS-WEB , which was accompanied by, *inter alia*,: a fee payment of $1330, an Information Disclosure Statement, a preliminary amendment and an Application Data Sheet. The application was processed as a filing under 35 U.S.C. 111(a).

On 25 September 2007, applicant was mailed a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION.

On 18 December 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

As confirmed in applicant's present filing, applicant's did not select the radio button for filing under 35 U.S.C. 371, but rather used the button for filing a "Utility under 35 USC 111(a)" when electronically filing the above-captioned application on 12 July 2007. The 1390 transmittal letter and Application Data Sheet did identify the application as a National stage entry of PCT International Application number PCT/NL2006/050011. Thus, it was unclear what type

of application applicant was intending to file. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.494(f) and 37 CFR 1.495(g)). In addition, section 1893.03(a), page 1800-114 of the MPEP states that "[i]f 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)." The use of the "Utility under 35 USC 111(a)" radio button is considered a conflicting instruction. As such, the application was properly treated as an application under 35 U.S.C. 111 and 37 CFR 1.53.

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action 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 (i.e., the loss of patent rights) where no other remedy is available.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, if this application (Application No. 11/777,007) and the international application (PCT/NL06/50011) designating the United States were copending on 12 July 2007. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/NL06/50011, filed 16 January 2006 which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau for the national stage cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

In addition, applicant is advised that it is possible to revive the present international application in the National Stage in the United States pursuant to 37 CFR 1.137(b). This advice should not be construed as a statement as to whether said petition will be granted.

CONCLUSION

The petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED**.

Any further correspondence with respect to this matter should be directed 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

2 1 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Foley & Lardner, LLP
Suite 500
3000 K Street
Washington, DC 20007

In re Application of	:	
MEIJER	:	
U.S. Application No.: 11/777,007	:	
PCT No.: PCT/NL06/50011	:	DECISION ON PETITION
Int. Filing Date: 16 January 2006	:	
Priority Date: 14 January 2005	:	UNDER 37 CFR 1.182
Attorney's Docket No.: 069818-8400	:	
For: PROTECTIVE COMPOSITION	:	

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION OF PETITION FOR TRANSFER OF APPLICATION TO US NATIONAL PHASE PROCESSING AND REQUEST FOR NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION BE VACATED UNDER 37 C.F.R. §1.181" filed 11 February 2008 in the United States Patent and Trademark Office (USPTO). The renewed petition is being considered under 37 CFR 1.182 to correct the error in the selection of the incorrect radio button during electronic filing of the application on 12 July 2007. Applicant is advised that the petition fee for a petition filed under 37 CFR 1.182 is $400.00. As authorized, this fee will be charged to deposit account number 19-0741.

BACKGROUND

On 21 December 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to convert the present nonprovisional application filed under 35 U.S.C. 111 to a U.S. National stage application under 35 U.S.C. 371. Applicant was afforded two months to file any request for reconsideration.

On 11 February 2008, applicant filed the present renewed petition under 37 CFR 1.181 which is being treated under 37 CFR 1.182 for the reasons discussed below.

DISCUSSION

As detailed in the decision mailed 21 December 2007 and conceded in applicant's present filing, when applicant initially electronically filed the application with the USPTO applicant mistakenly indicated that the application was a nonprovisional application under 35 U.S.C. 111(a). In order to excuse the mistake, a petition under 37 CFR 1.182 is required.

A review of the identifying information provided on the application data sheet and

transmittal letter (Form PTO-1390) filed by applicant on 12 July 2007 corresponds to that of a U.S. National stage filing of international application PCT/NL06/50011 under 35 U.S.C. 371. Pursuant to petitioner's request, the papers assigned U.S. application number 11/777,007 will be treated as a U.S. national stage submission for PCT/NL06/50011.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to initiate national stage processing of U.S. application number 11/777,007 as the U.S. national stage application of PCT/NL06/50011.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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Commissioner for Patents
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P.O. Box 1450
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MAILED
FROM DIRECTOR'S OFFICE

OCT 12 2007

TECHNOLOGY CENTER 3600

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

In re application of:
Vikramaditya Jain et al.
Application No. 11/777,024
Filed: July 12, 2007
For: DYNAMICALLY FABRICATED STORE FOR DISTRIBUTION OF MEDIA CONTENT

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

This is a decision on the 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 **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 fails to comply with conditions II.6.2, II.6.3, and II.6.5 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 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. It is noted that explanations of the disclosures of the references are provided and portions of the references are identified, but it is not clear if the limitations (or a portion thereof) of each claim are clearly taught by the reference. This is because there are no references made to specific claims (such as by claim numbers) when discussing the disclosures of each of the references. That 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 Support Document is required to include an explanation specifying how each of the claims are patentable over each of the cited references. In this case, the explanation provided for each independent claim and each reference in terms of the reference anticipating the claims appears to be acceptable. However, there is not an adequate explanation to sufficiently establish that there is no combination of cited references that teaches the claims in a manner that would render the claims and their limitations obvious. Therefore, claim patentability is not sufficiently established for each of claims 1-3 over the cited references.

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. In this case, Applicant includes limitations that are not consistent with the currently pending claims. In section 9(e), claim 1, sixth limitation, recites "providing a download utility for downloading the media content [...]" in both the Table 1 and Table 4, whereas in the listing of claims on page 2 of the Support Document, claim 1, sixth limitation, recites "providing a hyperlink for downloading the media content [...]". This discrepancy also occurs with respect to claims 2 and 3. In section 9(e), the seventh limitation of claim 2 in both Tables 2 and 5 and the fifth limitation of claim 3 in Tables 3 and 6 recite "download utility" as opposed to "hyperlink", which is recited in claims 2 and 3 in the claim listings on pages 2-3. This must be made consistent so that there is a clear showing of support for each currently claimed limitation.

Further with respect to condition to II.6.5, section 9(e) recites "Support for claims 1-3 in U.S. Patent Applications 11/675,978 and 11/327,154 under 35 USC 112, first paragraph, is shown in tables 1-6 below". Table 1 then recites "Support in the specification of the present application" and tables 2-3 recite "Support in the specification of app. No. 11/675,978". However, the current petition is with regards to application number 11/777,024. Further, 11/777,024 claims priority under 35 USC 120 to parent application 11/327,154. However, the current application does not have any benefit claims to application 11/675,978. Therefore, it is not sufficiently shown where

each limitation of each claim of current application 11/777,024 finds support under 35 USC 112 in the written description of the application. This must be made clear.

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 Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/bvd: 10/9/2007

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NOV 27 2007

TECHNOLOGY CENTER 3600

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

In re application of:
Vikramaditya Jain et al.
Application No. 11/777,024
Filed: July 12, 2007
For: DYNAMICALLY FABRICATED STORE FOR DISTRIBUTION OF MEDIA CONTENT

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the renewed petition filed on November 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 **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.

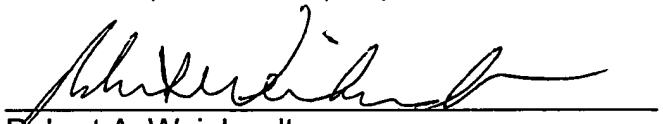
On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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: 11/26/07

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WEATHERLY KERVEN & SEIGEL LLC
115 PERIMETER CENTER PLACE
SUITE 1082
ATLANTA GA 30346-1245

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Nossi Taheri	:	
Application No. 11/777,045	:	DECISION ON PETITION
Filed: July 12, 2007	:	
Attorney Docket No. B001.P003U2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue 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 3, 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 Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Mark Slamowitz	: DECISION ON REQUEST FOR
Patent Number	: 7639549	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/777,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2007	: 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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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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AUG 1 8 2008

In re Application of :

BHATIA, Ajay :
Application No. 11/777,074 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. **SUN080722-US-NP** : FROM RECORD

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 29, 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 Edward Kwok on behalf of all attorneys of record who are associated with customer No. 51344. All attorneys/agents associated with the Customer Number 51344 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **AJAY BHATIA**
1387 LOYOLA DRIVE
SANTA CLARA, CA 95051

cc: **JEFFREY M. SZUMA ESQ.**
BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

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C/O IP DOCKETING DEPARTMENT
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FALLS CHURCH VA 22042-2924

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Haubrich, Chaug, Wu, Liang, and	:	DECISION REFUSING STATUS
Wang	:	UNDER 37 CFR 1.47(a)
Application Number: 11/777083	:	
Filing Date: 07/12/2007	:	
Attorney Docket Number:	:	
07783.0054.CPUS03	:	

This is in response to the "PETITION FOR FILING AN APPLICATION WHEN AN INVENTOR REFUSED TO SIGN UNDER 1.47(a)", filed on 25 September, 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 12 July, 2007, without an executed oath or declaration.

Accordingly, on 26 July, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration, additional claim fees, and a surcharge for its late filing.

In response, on 25 September, 2007, a declaration naming Jeanne E. Haubrich, Yi-Shung Chaug, Zarng-Arh George Wu, Rong-Chang Liang, and Zioajia Wang as joint inventors, signed by all joint inventors except Liang on behalf on behalf of themselves and non-signing joint inventor Liang was filed, along with the present petition and fee and filing fees.

Petitioners assert that the papers were sent to Liang by email, but that no response was received. Petitioners further aver, via the statement of Y. Ping Chow, Vice President of Intellectual Property and Knowledge Management for assignee SiPix Imaging, Inc., states that in September, 2006, Liang sent an email refusing to sign any "Inventor Declaration of any SiPix application for which he is a co-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 inventor.

The petition lacks item (1).

The petition must be dismissed because sufficient proof has not been provided that the inventor received the application papers. With regard to the mailing by certified mail, the showing of record is that the papers were not received by the non-signing inventor, but by another individual, and it is unclear whether the non-signing inventor ever received the application.

At the outset, petitioners' statement that Liang refuses to sign any declarations for SiPix applications is not sufficient in itself to justify granting Rule 1.47(a) status, as the E-mail in which the statement was made was sent nearly one (1) year prior to the filing of the subject application and was sent in reference to two different applications. As Rule 1.47(a) requires that the inventor be sent a copy of the application, or that diligent efforts be made to reach the inventor, a copy of the application must be sent or given to the non-signing inventor.

In this regard, a copy of the application papers should be sent to the **last known address** of the non-signing inventor, or, if the

non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.[1]

Furthermore, with regard to the sending of the documents by email, the transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal 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 fact.

If an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration.

If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have

---

[1] MPEP 409.03(d)(II).

established that an inventor(s) cannot be found despite diligent efforts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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

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OFFICE OF PETITIONS

In re Application of	:	
Haubrich, Chaug, Wu, Liang, and Wang	:	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)
Application Number: 11/777083	:	
Filing Date: 07/12/2007	:	
Attorney Docket Number: 07783.0054.CPUS03	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 1.47(a)", filed on November 13, 2007.

The petition is **GRANTED**.

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 July 12, 2007, without an executed oath or declaration.

Accordingly, on July 26, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration, additional claim fees, and a surcharge for its late filing.

In response, on September 25, 2007, a declaration naming Jeanne E. Haubrich, Yi-Shung Chaug, Zarng-Arh George Wu, Rong-Chang Liang, and Zioajia Wang as joint inventors, signed by all joint inventors except Liang on behalf on behalf of themselves and non-signing joint inventor Liang was filed, along with the present petition and fee and filing fees.

Petitioners assert that the papers were sent to Liang by email, but that no response was received. Petitioners further aver, via the statement of Y. Ping Chow, Vice President of Intellectual Property and Knowledge Management for assignee SiPix Imaging, Inc., states that in September, 2006, Liang sent an email refusing to sign any "Inventor Declaration of any SiPix application for which he is a co-inventor."

The present renewed petition is accompanied by a Statement of Fact by Amy Chao, in which she states that she personally delivered a copy of the application papers and declaration to the non-signing inventor's residence.

Petitioners have shown that the non-signing inventor, Rong-Chang Liang, has constructively refused to join in the filing of the above-identified application after having been sent a copy of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Rong-Chang Liang
875 Brent Drive
Cupertino CA 95014

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DEC 11 2007

OFFICE OF PETITIONS

In re Application of
Haubrich et al.
Application No. 11/777,083
Filed: July 12, 2007
For: PROCESS FOR FORMING A PATTERNED THIN FILM STRUCTURE ON A SUBSTRATE

Dear Dr. Liang:

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

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

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9-27-07

In re application of
Biprodas Dutta
Serial No. 11/777,112
Filed: July 12, 2007
For: METHODS OF DRAWING NANOWIRES

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on July 12, 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 section II, subsections 5 and 6.

First, it appears that the search (section II, subsection 5.1) is incomplete. A search in the following classes and subclasses is required:

65/385, 408, 411, 428, 442, 444, 475, 476, 477
977/778, 785, 813, 823, 948

Also, the showing of support (section II, subsection 6.5) is overly general and lacks the necessary specificity. The showing should specify where *each limitation* of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the instant specification, rather than merely referring broadly to the specification as supporting the invention as a whole. For example, the support document should read along the lines of "the step of sealing off one end of the glass tube is supported at least by paragraph [0058] and Figure 1." The same type of showing is also required for parent application 11/299,283.

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/

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,112	07/12/2007	Biprodas DUTTA	10WZ-131100	7979

30764 7590 11/01/2007

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EXAMINER	
ART UNIT	PAPER NUMBER
1731	

MAIL DATE	DELIVERY MODE
11/01/2007	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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11-1-07

In re application of :
Biprodas Dutta :
Serial No. 11/777,112 : DECISION ON PETITION
Filed: July 12, 2007 : TO MAKE SPECIAL
For: METHODS OF DRAWING NANOWIRES :

This is a decision on the renewed PETITION TO MAKE SPECIAL UNDER ACCELERATED EXAMINATIN PROGRAM filed on October 25, 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 renewed petition 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.

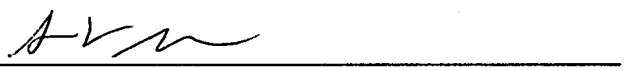
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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.



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AUG 07 2007

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In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/777,126
Filed: July 12, 2007

Title: **FORWARD-LOOKING TONE ALLOCATION 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 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 **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 on July 17, 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
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Communications

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In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/777,126
Filed: July 12, 2007

Title: **FORWARD-LOOKING TONE ALLOCATION 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 12; 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). Note: The decision denying the petition mailed August 7, 2007 is vacated. It has been determined that the application was complete upon filing.

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: 370/203, 208, 519, 525 and 714/707, 708.

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 Cioffi and Bingham et al. references 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 Cioffi and Bingham 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.

Kenneth A. Wieder
Quality Assurance Specialist
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In re Application of:
GEILE, MICHAEL J., et al.
Serial No.: 11/777,126
Filed: July 12, 2007

Title: **FORWARD-LOOKING TONE ALLOCATION 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 September 21, 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 August 28, 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
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Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,131	07/12/2007	Jong-Hun KIM	0630-3062PUS1	8006

2292 7590 03/17/2008

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EXAMINER	
ART UNIT	PAPER NUMBER
2833	

NOTIFICATION DATE	DELIVERY MODE
03/17/2008	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):

mailroom@bskb.com

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Birch, Steward, Kolash & Birch, LLP
P.O. Box 747
Falls Church, Virginia 222040-0747

MAR 17 2008

In re Application of	:	
Jong-Hun KIM, et al.	:	DECISION ON REQUEST TO
Application No. 11/777,131	:	PARTICIPATE IN PATENT
Filed: 07/12/2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 0630-3062PUS1	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed [Insert date request was filed], to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application is (a) a Paris Convention application, or (b) a national stage application under the PCT, or (c) a so-called bypass application filed under 35 USC 111(a) validly claiming benefit under 35 USC 120 to a PCT application, the PCT application validly claiming benefit under 35 USC 119(a) and 37 CFR 1.55 to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

* * * * * * * *

Conditions (1) to (4) & (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails to meet conditions (5) & (6) above.

Regarding condition (5) above, the applicant have failed to provide a copy of all KIPO office actions which are relevant to patentability (excluding "Decision to Grant a Patent") in the identified KIPO application, and an English translation of said document along with a statement that the English translations are accurate (if the documents are not in the English language).

Regarding condition (6) above, the applicant have failed to provide an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications

A proper response in this case must include:

(i) either, a copy of all KIPO office actions which are relevant to patentability (excluding "Decision to Grant a Patent") in the identified KIPO application, and an English translation of said document along with a statement that the English translations are accurate (if the documents are not in the English language), **or** a statement that there are no KIPO office actions which are relevant to patentability in the identified KIPO application;

and

(ii) a proper IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications **or** a statement that there are no documents cited by a KIPO examiner in a KIPO office action which is relevant to patentability.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Michael Day at 571-273-1568.

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://uspto.gov/ebc/index.html.

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.
11/777,131	07/12/2007	Jong-Hun KIM	0630-3062PUS1	8006

2292 7590 04/02/2008

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
LEVI, DAMEON E	

ART UNIT	PAPER NUMBER
2841	

NOTIFICATION DATE	DELIVERY MODE
04/02/2008	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):

mailroom@bskb.com

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P.O. Box 747
Falls Church, Virginia 222040-0747

APR - 2 2008

In re Application of	:	
Jong-Hun KIM, et al.	:	DECISION ON REQUEST TO
Application No. 11/777,131	:	PARTICIPATE IN PATENT
Filed: 07/12/2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 0630-3062PUS1	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
For: MOBILE TERMINAL	:	37 CFR 1.102(d)

This is a decision on the request to reconsider the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 26, 2008, 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, or (b) a national stage application under the PCT, or (c) a so-called bypass application filed under 35 USC 111(a) validly claiming benefit under 35 USC 120 to a PCT application, the PCT application validly claiming benefit under 35 USC 119(a) and 37 CFR 1.55 to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

* * * * * * * *

A proper response to the dismissal in this case was received on March 26, 2008 and included:

(i) a statement that there are no KIPO office actions which are relevant to patentability in the identified KIPO application;

and

(ii) a statement that there are no documents cited by a KIPO examiner in a KIPO office action which is relevant to patentability.

CONCLUSION

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.

Response must be faxed to Michael Day at 571-273-1568.

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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In re Application of
Casey L. Curtis

Application No. 11777141

Filed: July 12,2007

Attorney Docket No. STOR101CIP

:
:
: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 28-AUG-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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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

Mail Date: 04/20/2010

Applicant	: Casey L. Curtis	: DECISION ON REQUEST FOR
Patent Number	: 7591626	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/777,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2007	: 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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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

Mail Date: 05/17/2010

Applicant : Casey L. Curtis
Patent Number : 7591626
Issue Date : 09/22/2009
Application No: 11/777,141
Filed : 07/12/2007

: 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 **33** 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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C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304-1013

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OFFICE OF PETITIONS

In re Application of :
SCHMITZ, Franz Ulrich et al. :
Application No. 11/777,154 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. **355491-3001(G102US)** : FROM RECORD
:

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 04, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Antoinette F. Konski on behalf of all attorneys of record who are associated with customer No. 77977. 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 Franz Ulrich Schmitz at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FRANZ ULRICH SCHMITZ**
544 MARIN AVENUE
MILL VALLEY, CA 94941

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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APR 16 2008

In re Application of	:	
McCoull et al.	:	
Application Number: 11/777180	:	DECISION ACCORDING STATUS
Filing Date: 07/12/2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket Number:	:	
18755US01 (P00410)	:	

This is a decision on the petition filed on February 26, 2008, under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Robert Linley Muir, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners' registered patent practitioner, Christopher N. George, and global patent counsel, Kieran Power, state in the renewed petition that a copy of the application and declaration was sent to the non-signing inventor, but that no response was received. Additional, Mr. Power states that during an oral conversation with Mr. Muir, Mr. Muir "indicated his refusal to cooperate with [assignee Aristocrat Technologies Australia (hereinafter "Aristocrat")] for which he (Muir) is named as an inventor."

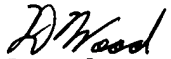
As such, the showing of record is that the non-signing inventor both expressly and constructively refused to sign the declaration naming him as a joint inventor along with James Ross McCoull.

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 the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to Technology Center Art Unit 2115 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-08

Robert Linley Muir
7/6 Benton Avenue
Artarmon NSW 2064
AUSTRALIA

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APR 16 2008

In re Application of
McCoull et al.
Application No. 11/777,180
Filed: July 12, 2007
For: A GAMING MACHINE HAVING A SECURE BOOT CHAIN AND METHOD OF USE

Dear Mr. Muir:

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

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500 WEST MADISON ST.
SUITE 3400
CHICAGO IL 60661

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APR 16 2008

In re Application of
MCCOULL AND MUIR
Application No. 11/777,193
Filed: 07/12/2007
Attorney Docket No. P62490 (18756US01)
Title: ELECTRONIC GAMING MACHINE INCLUDING A SMARTCARD FOR PROTECTION, AND METHOD OF USE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 9, 2008. Petitioners obtained a

The petition is **dismissed.**

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. Applicants lack item (4).

As to item (4), applicants did not set forth the last known address of the non-signing inventor in the petition.

Pursuant to MPEP 409.03(e),

> An application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning 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.

Inasmuch as a nonsigning inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the nonsigning inventor may be reached should also be given.

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) 272-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit correspondence via EFS-Web.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 10 2009

OFFICE OF PETITIONS

In re Application of :
MCCOULL AND MUIR : DECISION ON PETITIONS
Application No. 11/777,193 :
Filed: 07/12/2007 :
Attorney Docket No. P62490 (18756US01) :
Title: ELECTRONIC GAMING MACHINE :
INCLUDING A SMARTCARD FOR :
PROTECTION, AND METHOD OF USE :

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 14, 2008. This is also a decision on the petition under 37 CFR 1.181, filed November 14, 2008, to withdraw the holding of abandonment in the above-identified application.

On January 9, 2008, applicants filed a timely petition under 37 CFR 1.47(a), which was dismissed by the decision of April 16, 2008. The decision set a period of two (2) months from the mailing date of the decision to file a renewed petition, which could include an oath or declaration executed by the inventors. The decision further indicated that applicants could extend the period to file a renewed petition pursuant to 37 CFR 1.136(a) (*i.e.* filing a request for an extension of time for response up to five additional months accompanied by the requisite fee).

On November 14, 2008, applicants filed the present petitions under 37 CFR 1.47(a) and 1.181, a request for an extension of time for response within the fifth month, and an authorization to charge any necessary fees to the Deposit Account.

In the present petition, applicants assert that the application is not abandoned and request that the Office withdraw the holding of abandonment. Specifically, applicants aver that they timely filed the present petition under 37 CFR 1.47(a) because the decision of April 16, 2008, provided applicants with a two-month period to file a renewed petition, which could be extended up to an additional five months pursuant to 37 CFR 1.136(a) (*i.e.* until November 16, 2008).

Upon a review of the record, applicants' assertion is correct. On November 14, 2008, applicants submitted a request for an extension of time for response within the fifth month and an authorization to charge the fee to the Deposit Account. The present petition under 37 CFR 1.47(a) was filed timely, and therefore, the application is not abandoned. The petition to withdraw the holding of abandonment is **granted**.

As to the petition under 37 CFR 1.47(a), applicants showed that the non-signing inventor refused to join in the application after having been presented with a copy of the application papers and declaration for his signature.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. The petition under 37 CFR 1.47(a) is **granted**. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office finance records reveal that the Office has charged the Deposit Account for a $2,350.00 five-month extension of time fee and a $1,110.00 three-month extension of time fee. The $1,110.00 three-month extension of time fee is unnecessary and will be credited to the Deposit Account in due course.

The Office of Patent Application Processing has been advised of this decision granting the petitions to withdraw the holding of abandonment and to accord the application status under 37 CFR 1.47(a). This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert Linley Muir
7/6 Benton Avenue
Artarmon, NSW
AUSTRALIA 2015

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APR 10 2009

OFFICE OF PETITIONS

In re Application of :
MCCOULL AND MUIR : LETTER
Application No. 11/777,193 :
Filed: 07/12/2007 :
Attorney Docket No. P62490 (18756US01) :
Title: ELECTRONIC GAMING MACHINE :
INCLUDING A SMARTCARD FOR PROTECTION, :
AND METHOD OF USE :

Dear Mr. Muir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to the Certification Division at (571) 272-3150 or (800) 972-6382 (outside the Washington, DC area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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RELIANT / FENWICK
c/o FENWICK & WEST, LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAY 0 1 2008

OFFICE OF PETITIONS

In re Application of :
B. Wayne Stuart III, et al. :
Application No. 11/777,196 : DECISION ACCORDING STATUS
Filed: July 12, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 23920-13189 :

This is in response to the petition filed February 27, 2008 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 12, 2007 without an executed oath or declaration. Accordingly, on July 27, 2007, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed by all the remaining inventors except joint inventor B. Wayne Stuart III, and a petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Stuart refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Mr. Stuart and that Mr. Stuart has verbally refused in a telephone conversation with Attorney Michael Farn, Registration No. 41,015, to execute the oath or declaration and thus, to cooperate with the filing of the instant application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,215	07/12/2007	Bennett Cookson JR.	019404-001510US	8156

20350 7590 04/19/2010
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
TRAN, ANHTAI V	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
04/19/2010	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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Charles W. Gray
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

In re Application of:
Bennett COOKSON Jr. et al
Application No. 11/777,215
Filed: July 12, 2007
For: CORRELATING GENEALOGY RECORDS SYSTEMS AND METHODS

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition, filed on 19 January 2010, requesting that the shortened statutory period for reply set forth in the Office Action mailed on 24 July 2009 be restarted.

In the absence of any apparent irregularity associated with the mailing of an Office Action, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office Action was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Office Action mailed 24 July 2009 was never received by applicants and provide a statement attesting to the fact that a search of the file jacket and the docket records indicated that the Office Action was not received and further stated applicant's representative only discovered the Office Action during a recent check of PAIR and stated that the Office Action was downloaded from the Private PAIR on 23 December 2009. The petitioner supplied a copy of the law firm's docketing system showing that the Office Action was never received by applicant's representative. The copy of the docketing system shows no entry reflecting receipt of the Office Action on or about 24 July 2009.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on 24 July 2009 is hereby reset to run FROM THE DATE OF 23 December 2009.

A review of the application file indicates that a response to the Office Action has been filed on 25 January 2010. Thus, the 3-months extension of time fee ($555.00) is not required and will be credited back to Deposit Account No. 20-1430.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 05/05/2010

Applicant	: Hyun Cheol Koo	: DECISION ON REQUEST FOR
Patent Number	: 7608901	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/777,228	: OF WYETH
Filed	: 07/12/2007	:
		:

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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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Gabriel P. Beltran et al. :
Application No. 11/777,236 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. 12MP-125028 : FROM RECORD
:

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, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David E. Heisey on behalf of attorney/agents associated with customer number 30764. All attorneys/agents associated with customer number 30764 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gabriel Beltran
5835 Signal Hill Drive
Dublin, CA 94568

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/777,236	07/12/2007	Gabriel P. Beltran	12MP-125028

CONFIRMATION NO. 8195

POWER OF ATTORNEY NOTICE

30764
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
KRAFFT, Grant A. et al. :
Application No. 11/777,264 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. **089265-1400** : FROM RECORD
:

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 04, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on August 04, 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: **SWISS TANNER, P.C.**
P.O. BOX 1749
FOUR MAIN STREET, SUITE 100
LOS ALTOS CA 94022

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975 PAGE MILL ROAD
PALO ALTO, CA 94304

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
KRAFFT, Grant A. et al. :
Application No. 11/777,266 : DECISION ON PETITION
Filed: July 12, 2007 : TO WITHDRAW
Attorney Docket No. **089265-1450** : FROM RECORD
:

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 04, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on August 04, 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: **SWISS TANNER, P.C.**
P.O. BOX 1749
FOUR MAIN STREET, SUITE 100
LOS ALTOS CA 94022

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Gregory Richard Heller	: DECISION ON REQUEST FOR
Patent Number	: 7584657	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/777,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2007	: 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.
11/777,361	07/13/2007	Seung-Hoon Nam	0202-0014	8429

7590 02/18/2009

Jefferson IP Law, LLP
1730 M Street, NW
Suite 807
Washington, DC 20036

EXAMINER	
GHAYOUR, MOHAMMAD H	

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
02/18/2009	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:
02/19/2009 0030066040

Credit Card Refund Total: $2270.00

VISA....: XXXXXXXXXXXX4261

Adjustment date: 02/19/2009 NFARMER
10/01/2007 INTEFSW 00017280 11777361
02 FC:1111 -510.00 OP
04 FC:1202 -500.00 OP
05 FC:1201 -1260.00 OP

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OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Chenxi Zhu et al :
Application No. 11/777,385 : DECISION ON REQUEST FOR REFUND
Filed: July 13, 2007 :
Attorney Docket No. 1974.1009 :

This is a decision on the Request for Refund filed March 26, 2009.

The request for refund is **DISMISSED**.

Petitioner asserts that the instant application was charged twice for the filing fees. However, applicant should be aware that the filing fees for the above application were only charged once. As noted on the copy of the Monthly Statement Of Deposit Account, submitted with the above request, it indicates that a duplicate application was filed on July 13, 2007and given **Application No. 11/777,372.**

In view of the above, the request for refund is dismissed.

Applicants' attention is directed to the below:

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 when the following conditions have been met: o

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the

Patent Electronic Business Center
at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,411	07/13/2007	Markus Berger	JS-0059	8515

23599 7590 06/07/2010

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER	
SEAMAN, D MARGARET M	
ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
06/07/2010	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):

docketing@mwzb.com

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JUN 07 2010

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of: BERGER et al.
Serial No.: 11/777,411

Filed: July 13, 2007
Docket: JS-0059

DECISION ON PETITION
UNDER 37 C.F.R. § 1.144

Title: **BENZYL AMINES, A PROCESS FOR THEIR PRODUCTION AND THEIR USE AS ANTI-INFLAMMATORY AGENTS**

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on March 23, 2010.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

A Requirement for Restriction and Election was mailed May 15, 2009.

I. Claims 1-3, 5-11 drawn to stereoisomers having a general formula I wherein R4 = a nonheterocycle, classified in class 564, subclass 316.
II. Claims 1-11, drawn to stereoisomers having a general formula I wherein R4 = a nitrogen and/or oxygen containing heterocycle, classified in class 546, subclass 134.
III. Claims 1-11, drawn to stereoisomers having a general formula I wherein R4 = a sulfur containing heterocycle, classified in class 549, subclass 66.
IV. Claims 12, 13, 14-21 , drawn to methods of making and manufacturing compounds of general formula I wherein R4 = a nonheterocycle, classified in class 564, subclass 31.
V. Claims 12, 13, 14-21 , drawn to methods of making and manufacturing compounds of general formula I wherein R4 = a nitrogen and/or oxygen containing heterocycle, classified in class 548, subclass 100.

VI. Claims 12, 13, 14-21, drawn to methods of making and manufacturing compounds of general formula I wherein R4 = a sulfur containing heterocycle, classified in class 549, subclass 66.
VII. Claims 22-26, 27, drawn to intermediates wherein R4 = a nonheterocycle, classified in class 564, subclass 313.
VIII. Claims 22-26, 27, drawn to intermediates wherein R4 = a nitrogen and/or oxygen containing heterocycle, classified in class 548, subclass 100.
XI. Claims 22-26, 27, drawn to intermediates wherein R4 = a sulfur containing heterocycle, classified in class 549, subclass 66.
X. Claims 13, 28, drawn to methods of treating inflammation R4 = a nonheterocycle, classified in class 564, subclass 316.
XI. Claims 13, 28, drawn to methods of treating inflammation wherein R4 = a nitrogen and/or oxygen containing heterocycle, classified in class 548, subclass 100.
XII. Claims 13, 28, drawn to methods of treating inflammation wherein R4 = a sulfur containing heterocycle, classified in class 549, subclass 66.
Note: It is unclear whether claim 13 is a method of making claim or a method of using claim. In the instant restriction, Examiner has placed claim 13 in the method of making and method of using Groups. It is requested that Applicant clarify this issue. Once clarified, claim 13 will be placed solely in the method making Groups (IV, V, VI) or the method of using Groups (X, XI, XII).

Applicant timely elected with traverse on June 15, 2009. Applicant elected Group II and elected α-Chloromethyl-2-methoxy-ß-[(2-methylquinolin-5-yl)amino]-α-(trifluoromethyl)benzeneethanol, the species of example 3 Applicant did not amend claim 13.

A modified Requirement for Restriction and Election was mailed August 3, 2009.

Claims 12, 13 and 27 have not been restricted due to these claims being drawn to non-statutory subject matter, i.e. "Use of".
I. Claims 1-11 (in part) drawn to compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
II. Claims 1-11 (in part), drawn to compounds of formula (I) wherein R4 is quinolin- 5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
III. Claims 1-11 (in part), drawn to compounds of formula (I) wherein R4 is quinazolinyl, classified in class 544, subclass 242, with an election of a single disclosed species.
IV. Claims 1-11 (in part), drawn to compounds of formula (I) wherein R4 is phthalazinyl, classified in class 544, subclass 224, with an election of a single disclosed species.
V. Claims 1-11 (in part), drawn to compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
VI. Claim 14 (in part) drawn to a first method of making compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.

VII. Claim 14 (in part) drawn to a first method of making compounds of formula (I) wherein R4 is quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
VIII. Claim 14 (in part) drawn to a first method of making compounds of formula (I) wherein R4 is quinazolinyl, classified in class 544, subclass 242, with an election of a single disclosed species.
IX. Claim 14 (in part) drawn to a first method of making compounds of formula (I) wherein R4 is phthalazinyl, classified in class 544, subclass 224, with an election of a single disclosed species.
X. Claim 14 (in part) drawn to a first method of making compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
XI. Claim 16 (in part) drawn to a second method of making compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
XII. Claim 16 (in part) drawn to a second method of making compounds of formula (I) wherein R4 is quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
XIII. Claim 16 (in part) drawn to a second method of making compounds of formula (I) wherein R4 is quinazolinyl, classified in class 544, subclass 242, with an election of a single disclosed species.
XIV. Claim 16 (in part) drawn to a second method of making compounds of formula (I) wherein R4 is phthalazinyl, classified in class 544, subclass 224, with an election of a single disclosed species.
XV. Claim 16 (in part) drawn to a second method of making compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
XVI. Claim 18 (in part) drawn to a third method of making compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
XVII. Claim 18 (in part) drawn to a third method of making compounds of formula (I) wherein R4 is quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
XVIII. Claim 18 (in part) drawn to a third method of making compounds of formula (I) wherein R4 is quinazolinyl, classified in class 544, subclass 242, with an election of a single disclosed species.
XIX. Claim 18 (in part) drawn to a third method of making compounds of formula (I) wherein R4 is phthalazinyl, classified in class 544, subclass 224, with an election of a single disclosed species.
XX. Claim 18 (in part) drawn to a third method of making compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.

XXI. Claim 20 (in part) drawn to a fourth method of making compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
XXII. Claim 20 (in part) drawn to a fourth method of making compounds of formula (I) wherein R4 is quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
XXIII. Claim 20 (in part) drawn to a fourth method of making compounds of formula (I) wherein R4 is quinazolinyl, classified in class 544, subclass 242, with an election of a single disclosed species.
XXIV. Claim 20 (in part) drawn to a fourth method of making compounds of formula (I) wherein R4 is phthalazinyl, classified in class 544, subclass 224, with an election of a single disclosed species.
XXV. Claim 20 (in part) drawn to a fourth method of making compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl , classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
XXVI. Claim 28 (in part) drawn to a method of treatment using compounds of formula (I) wherein R4 is a nonhetero ring, classified in class 514, subclass 477, with an election of a single disclosed species.
XXVII.Claim 28 (in part) drawn to a method of treatment using compounds of formula (I) wherein R4 is quinolin-5-yl, classified in class 514, subclass 312, with an election of a single disclosed species.
XXVIII. Claim 28 (in part) drawn to a method of treatment using compounds of formula (I) wherein R4 is quinazolinyl, classified in class 514, subclass 256, with an election of a single disclosed species.
XXIX. Claim28 (in part) drawn to a method of treatment using compounds of formula (I) wherein R4 is phthalazinyl, classified in class 514, subclass 247, with an election of a single disclosed species.
XXX. Claim 28 (in part) drawn to a method of treatment using compounds of formula (I) wherein R4 is a heterocycle other than quinolin-5-yl, quinazolinyl or phthalazinyl, classified in class 514, subclass various, depending upon an election of a single disclosed species.
XXXI. Claim 22 (in part) and claims 15 and 23 (in full), drawn to compounds and methods of making compounds of formula V, classified in class 564, subclass 300, with an election of a single disclosed species.
XXXII. Claim 22 (in part) and claims 17 and 24, drawn to compounds and methods of making compounds of formula VII where R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
XXXIII. Claim 22 (in part) and claims 17 and 24, drawn to compounds and methods of making compounds of formula VII where R4 is a quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
XXXIV. Claim 22 (in part) and claims 17 and 24, drawn to compounds and methods of making compounds of formula VII where R4 is a quinazolinyl ring, classified in class 544, subclass 242, with an election of a single disclosed species.

XXXV. Claim 22 (in part) and claims 17 and 24, drawn to compounds and methods of making compounds of formula VII where R4 is a phthalazinyl ring, classified in class 544, subclass 224, with an election of a single disclosed species.
XXXVI. Claim 22 (in part) and claims 17 and 24, drawn to compounds and methods of making compounds of formula VII where R4 is a heterocycle other than quinolin- 5-yl, quinazolinyl or phthalazinyl, ring, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
XXXVII. Claim 22 (in part) and claims 19 and 25, drawn to compounds and methods of making compounds of formula X where R4 is a nonhetero ring, classified in class 564, subclass 316, with an election of a single disclosed species.
XXXVIII. Claim 22 (in part) and claims 19 and 25, drawn to compounds and methods of making compounds of formula X where R4 is a quinolin-5-yl, classified in class 546, subclass 153, with an election of a single disclosed species.
XXXIX. Claim 22 (in part) and claims 19 and 25, drawn to compounds and methods of making compounds of formula X where R4 is a quinazolinyl ring, classified in class 544, subclass 242, with an election of a single disclosed species.
XXXX. Claim 22 (in part) and claims 19 and 25, drawn to compounds and methods of making compounds of formula X where R4 is a phthalazinyl ring, classified in class 544, subclass 224, with an election of a single disclosed species.
XXXXI. Claim 22 (in part) and claims 19 and 25, drawn to compounds and methods of making compounds of formula X where R4 is a heterocycle other than quinolin-5- yl, quinazolinyl or phthalazinyl, ring, classified in classes 540-549, subclass various, depending upon an election of a single disclosed species.
XXXXII. Claim 22 (in part) and claims 21 and 26, drawn to compounds and methods of making compounds of formula XII, classified in class 564, subclass 316, with an election of a single disclosed species.

Applicant timely elected with traverse September 2, 2009. Applicant elected Group II and elected α-Chloromethyl-2-methoxy-ß-[(2-methylquinolin-5-yl)amino]-α-(trifluoromethyl)benzeneethanol, the species of example 3 Applicant did not amend claims 12, 13 or 27.

The Requirement for Restriction and Election was mailed FINAL in the Office Action mailed November 23, 2009.

The instant petition filed March 23, 2010 is directed to the Requirement for Election and Restriction mailed May 15, 2009 but not that of August 3, 2009.

DISCUSSION

Petitioner's basis for argument is M.P.E.P. §803.02 which sets forth USPTO examination policy for Markush-type claims.

The Examiner appears to have interpreted the following passage from MPEP §803.02 to permit restriction within a claim when the "Markush" group lacks unity of invention.

> Since the decisions in In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. In re Harnisch, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and Ex parte Hozumi, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature essential to that utility.

However, there is nothing in MPEP §803.02 nor other sections of MPEP §800 nor in 37 C.F.R. nor in 35 U.S.C. which instructs the examiner as to how to proceed when a "Markush" group lacks unity of invention. In the absence of such guidance the Examiner lacks authority to refuse to examinee that which applicant regards as his invention despite the encouragement provided by *In re Harnisch* (631 F.2d 716).

In the absence of guidance in any of the statutes, rules and M.P.E.P. the examiner is constrained to follow the directions set forth for examining Markush claims in M.P.E.P. §802.03 even if the compounds lack unity of invention.

The absence of such guidance renders moot a determination of whether or not the Markush group has unity of invention because even if it were found that the Markush group lacked unity of invention there are no statutes, rules or office policy as to how to proceed.

It is clear from M.P.E.P. §803.02 that if the elected species is allowable that the examiner is to extend the search to additional species.

The Requirement for Restriction and Election set forth on August 3, 2009 sets forth 42 groups.

> Groups I-V are directed to compounds of Formula I.
>
> Groups VI-X are directed to methods of making compounds of formula I wherein a compound of formula V is utilized.
>
> Groups XI-XV are directed to methods of making compounds of formula I wherein a compound of formula VII is utilized.
>
> Groups XVI-XX are directed to methods of making compounds of formula I wherein a compound of formula X is utilized.
>
> Groups XXI-XXV are directed to methods of making compounds of formula I wherein a compound of formula XII is utilized.

Group XXVI-XXX are directed to methods of using compounds of formula I.

Groups XXXI is directed to compounds and methods of making compounds of formula V.

Groups XXXII-XXXVI are directed to compounds and to methods of making compounds of formula VII.

Groups XXXVII-XLI are directed to compounds and to methods of making compounds of formula X.

Group XLII is directed to methods of making compounds of formula XII.

Claim 22 which is included in Groups XXXI-XLII is a linking claim. The manner in which the examiner has set forth Groups XXXI-XLII is amended such that claim 22 is no longer a member of any of Groups XXXI-XLII and should any of Groups XXXI-XLII undergo examination claim 22 will be examined with the Group being examined.

The Requirement for Restriction and Election is hereby modified:

Group I, claims 1-12.
Group II, claim14.
Group III claim 16.
Group IV claim 18.
Group V claim 20.
Group VI claim 28.
Group VII claims 15 and 23.
Group VIII claims 17 and 24.
Group IX claims 19 and 25.
Group X claims 21 and 26.
Claim 22 links Groups VII-X and will be examined with any of Groups VII-X should they be subject to examination.

The election of species requirement previously applied remains in so far as it is consonant with each of the Groups set forth above.

The elected species is α-Chloromethyl-2-methoxy-ß-[(2-methylquinolin-5-yl)amino]-α-(trifluoromethyl)benzeneethanol.

Should the examiner find the elected species allowable examination is to proceed as set forth in M.P.E.P. §803.02.

DECISION

The petition is **GRANTED** for the reasons set forth above and as provide below.

Should there be any questions about this decision, please contact Quality Assurance Specialist Michael P. Woodward, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-8373 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Irem (Remy) Yucel
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Nabil Ouazza Tinacheri et al. :
Application No. 11/777,413 : DECISION ON PETITION
Filed: July 13, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1528.001 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant, Robert Eugene Bearnth's driver's license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2857 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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CANTOR COLBURN, LLP
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22ND FLOOR
HARTFORD CT 06103

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OFFICE OF PETITIONS

In re Application of	:	
Hyeon-Yong Jang et al	:	
Application No. 11/777,450	:	DECISION GRANTING PETITION
Filed: July 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21C0460US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of :
Amy Patitucci :
Application No.: 11/777,469 : ON PETITION
Filed: July 13, 2007 :
Attorney Docket No.: 2001P08346US02 :

This a decision on the petition filed November 14, 2007. The petition will be treated under 37 CFR 1.182.

The petition is **dismissed.**

The application was filed on July 13, 2007. On August 1, 2007, the Office of Patent Application Processing mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of July 13, 2007, but Figure 11, as described in the specification, appeared to have been omitted. Relative to the alleged omitted figure, the Notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on November 14, 2007, with a request for an extension of time within the second month. Petitioner maintains that Figure 11 accompanied the original application papers. In support, a copy of application, a copy of the omitted figure, and a copy of the Office date-stamped postcard acknowledging receipt of 9 sheets of drawings, among other items, was filed with instant petition.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the Office") file is the official record of the papers originally filed in this application. A review of the application file revealed that 9 sheets of drawings were filed on July 13, 2007, but that no Figure 11 among those drawings. Further, the copy of the application provided with the petition contains 10 sheets of drawings, with the tenth sheet containing Figure 11. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that counsel asserts that Figure 11 was among the sheets of drawings originally filed is not more persuasive than the actual drawings shown to have been received by the official file. Although an Office date-stamped postcard is normally *prima facie* evidence of the Office's receipt of a document, the Office date-stamped postcard is not dispositive of the Office's receipt of Figure 11, in this case, because the Office acknowledged receiving 9 sheets of drawings and 9 sheets of drawings are currently on file. In order for the Office date stamped postcard to serve as *prima facie* evidence in this case, the postcard would have had to list the figures contained in the 9 sheets of drawings. Without further corroborating

evidence, the documents filed with the instant petition are not sufficient to overcome petitioner's burden of proof.

The petition is dismissed.

Petitioner may submit Figure 11 in the form of a preliminary amendment for consideration by the examiner to determine whether Figure 11 contains new matter as compared to the original specification and drawings filed July 13, 2007. See 37 CFR 1.121.

The application is being directed to the Office of Patent Application Processing for further processing with a filing date of July 13, 2007, including only the 9 sheets of drawings filed on that date, excluding Figure 11.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Cha Zhang et al
Application No. 11/777,471
Filed: July 13, 2007
Attorney Docket No. MCS-030B-07
(321391.01)

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 June 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2129 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Mail Date: 04/21/2010

Applicant	: Jeffrey D. Martineck SR.	: DECISION ON REQUEST FOR
Patent Number	: 7624984	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/777,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **97** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of
Kendall Roger SWENSON, et al
Application No. 11/777,501
Filed: July 13, 2007
Attorney Docket No. 224593 (36708-3)

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 March 30, 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 Jerome R. Drouillard on behalf of the attorneys of record associated with Customer No. 27256.

The attorneys of record associated with Customer No. 27256 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KENDALL ROGER SWENSON
5988 ESTATE COURT,
ERIE, PA 16509

cc: GENERAL ELECTRIC COMPANY
1 RIVER ROAD
SCHENECTADY, NY 12345

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of:
FISH, DAN
Serial No.: 11/777,517
Filed: July 13, 2007

Title: **LEAK DETECTION APPARATUS**

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 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 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 6.5.

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: 340/604 and 616, 200/61.2, 137/312 and 138/104.

Regarding the requirement in item 6.5 above, the Accelerated Examination Support Document is deficient because it fails to provide a showing where each limitation of the claims finds support under 35 USC 112, first paragraph in the disclosure of benefit application 11/686,158.

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.

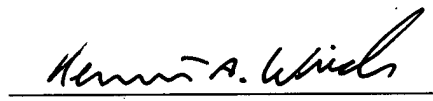
DECISION

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.



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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TECHNOLOGY CENTER 2600

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of:
FISH, DAN
Serial No.: 11/777,517
Filed: July 13, 2007

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

Title: **LEAK DETECTION APPARATUS**

This is a decision on the petition filed on November 21, 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 October 22, 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

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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.

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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.

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Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Mann+Hummel GMBH
Department VR-P
Hindenburgstr. 45
Ludwigsburg, 71638
GERMANY

Mail Date: 04/27/2010

Applicant	: Pedro Miguel Pereira MADEIRA	: DECISION ON REQUEST FOR
Patent Number	: 7685985	: RECALCULATION of PATENT
Issue Date	: 03/30/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/777,526	: OF WYETH
Filed	: 07/13/2007	:
		:

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,534	07/13/2007	Andreas Ehn	025522-000009	8735

24239 7590 12/26/2007

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

EXAMINER	
ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
12/26/2007	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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W. Kevin Ransom
MOORE & VAN ALLEN, PLLC
430 Davis Drive, Suite 500
Post Office Box 13706
Research Triangle Park, NC 27709

DEC 27 2007

TECHNOLOGY CENTER 2100

In re Application of:
Andreas EHN et al.
Appl. No.: 11/777,534
Filed: July 13, 2007
For: PEER-TO-PEER STREAMING OF MEDIA CONTENT

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on October 18, 2007 to expunge the Information submitted on August 29, 2007.

The petition is **GRANTED**.

Petitioner requests that the three (3) NPL documents and four (4) foreign references as listed in the accompanying PTO Form 1449 and a certified copy of Foreign Priority Application submitted on August 29, 2007 be expunged from the record. Petitioner states that these documents contain materials that were filed in error (should be filed in another non-related application) and have no relation to the instant application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents have been scanned into image; thus, cannot be returned. However, the expunged documents have been closed from public view.

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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Paper No.

HUNTON & WILLIAMS LLP
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DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Iversen et al.	:	ON PETITION
Application No. 11/777,558	:	and
Filed: July 13, 2007	:	NOTICE RE:
Atty Docket No. 55320.001033	:	ABANDONMENT

This is in response to the paper styled "FILING DATE PETITION UNDER 37 CFR 1.182 REQUESTING A FILING DATE OF JULY 13, 2007 AS THE AS-FILED APPLICATION WAS COMPLETE AS-FILED" filed October 1, 2007, requesting that the above-referenced application be accorded a filing date of July 13, 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 July 13, 2007. However, on August 1, 2007, the Office of Patent Application Processing (formerly 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 addition, the statutory basic filing fee was missing, additional fees were due and the oath or declaration was unsigned).

[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.

In response, applicants timely filed this petition. Applicants submit that the Notice was improper in failing to accord this application a filing date because it contained method claims (claims 1-45) which do not require the figures for an understanding of the claimed methods. Applicants state that on this basis the application as filed without drawings is entitled to a filing date.

Applicants further note that separate from this petition, they are submitting an Amendment under 37 CFR 1.57(a) requesting entry of Figures 1-9 as well as a copy of the provisional application that contains these identical Figures. Applicants note that Figures 1-9 are identical to Figures 1-9 contained in a provisional application, which the application, as originally filed, claims benefit of priority.

Applicants' argument is persuasive. 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).

A review of the application confirms that as filed the application contained at least one method claim. 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 petition is **GRANTED**.

The petition included authorization to charge the required petition fee of $400 to a Deposit Account. Given the basis for granting this petition, the petition fee is subject to refund. Accordingly, the fee, although authorized, will not be charged to the Deposit Account.

It is noted that this application is subject to abandonment. It does not appear that applicants have filed the missing fees, an executed declaration and/or late surcharge in response to the Notice of Incomplete Nonprovisional Application mailed August 1, 2007.

The Office of Patent Application Processing has been advised of this decision. Pursuant to this decision, the application has been referred for:

- **According of a filing date of July 13, 2007;**
- **Indication in Office records, as appropriate, that "0" sheets of drawings were present on filing;**
- **Issuance of a filing receipt;** and
- **Consideration of the abandonment status of the application for failure to submit a proper response to the Notice of Incomplete Nonprovisional Application.**

The preliminary amendment filed pursuant to 37 CFR 1.57(a) to enter the drawings will be considered by the examiner in due course. It is noted that the amendment is in compliance with 37 CFR 1.57(a) to the extent that the priority claim to the provisional application (60/830,665), was present on filing of the application and inadvertently omitted figures 1-9 are completely contained in the provisional application.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney, Nancy Johnson at (571) 272-3219.

Anthony Knight
Supervisor
Office of Petitions

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Hunton & Williams, LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Steen Brummerstedt Iversen et al.	:	
Application No. 11/777,558	:	DECISION ON PETITION
Filed: July 13, 2007	:	
Attorney Docket No. 55320.001033	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 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 of Incomplete Nonprovisional Application, mailed August 1, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed oath or declaration with the required surcharge fee of $130, $310 filing fee, $510 search, fee, $210 examination fee, $2400 excess claim fee and $370 multiple dependent claims surcharge, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. The oath and declaration, search fee, examination fee, excess claim fee and multiple dependent claim fees are accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2230 extension of time fee submitted with the petition on April 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and was not charged to petitioner's deposit account.

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 April 1, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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SUITE 800
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OFFICE OF PETITIONS

In re Application of :
FROST, Brandon H. et al. :
Application No. 11/777,588 : DECISION ON PETITION
Filed: July 13, 2007 : TO WITHDRAW
Attorney Docket No. **25H04.1-010** : FROM RECORD
:

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 01, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEVE DANIELS**
770 GATES LANE
ALPHARETTA, GA 30022

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In re Application of	:	
FROST, Brandon H. et al.	:	
Application No. 11/777,588	:	DECISION ON PETITION
Filed: July 13, 2007	:	TO WITHDRAW
Attorney Docket No. **25H04.1-010**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 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 Greenwald on behalf of all attorneys of record who are associated with customer No. 23506. All attorneys/agents associated with the Customer Number 23506 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of

the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **BRANDON H. FROST**
5043 N.W. MILLSTONE WAY
PORTLAND, OR 97229

cc: **STEVE DANIELS**
770 GATES LANE
ALPHARETTA, GA 30022

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NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
Michael Redtenbacher, et al. :
Application No. 11/777,621 :
Filed: July 13, 2007 :
Attorney Docket No. REDTENBACHER-5 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed February 18, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 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 assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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 inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WT-Invest Gesellschaft m.b.H & Co.**
Medizintechnik Vermarktung KG
Giessaufgasse 9/1
Vienna 1050 Austria

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OFFICE OF PETITIONS

In re Application of
Michael Redtenbacher, et al.
Application No. 11/777,621
Filed: July 13, 2007
Attorney Docket No. REDTENBACHER-5

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36, filed May 10, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 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 assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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 inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **E-GLOBE TECHNOLOGIES LTD.**
6 KOLOKOTRONI STREET, 1ST FLOOR
OFFICE 6
NICOSIA, 1101

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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of Meyer et al. :
Application No. 11/777,694 : Decision on Petition
Filing Date: July 13, 2007 :
Attorney Docket No. I446.123.101/I0770US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on May 21, 2009.

A reply was filed July 21, 2009.

The instant petition and a request for continued examination ("RCE") were filed February 4, 2010.

On February 18, 2010, the Office mailed an Advisory Action indicating the July 21, 2009, failed to place the application in condition for allowance.

A Notice of Abandonment was mailed February 24, 2010.

Since the July 21, 2009 reply was not a proper reply to the final Office action, the application became abandoned on August 22, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office action. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2891 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Neal Rueger	: DECISION ON REQUEST FOR
Patent Number	: 7649316	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/777,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/777,773	07/13/2007	Min-Hyung CHOO	P2031US00	9209

7590 05/05/2009

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

EXAMINER	
NGUYEN, DUNG T	

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
05/05/2009	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:
05/05/2009 0030069705

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX2002

Adjustment date: 05/05/2009 NFARNER
07/16/2007 INTEFSU 00001731 11777773
02 FC:1111 -500.00 OP

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In re Application of
George Gray

Application No. 11777793

Filed: July 13,2007

Attorney Docket No. IONC101

: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 04-AUG-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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
Kyle M. Bennett
Application No. 11/777,834
Filed: July 13, 2007
Attorney Docket: 076565-0154

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Adam M. Gustafson, on behalf of all practitioners of record associated with Customer Number 26371.

Customer Number 26371 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 15, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KYLE M. BENNETT
5124 WEST WILLOW ROAD
BROWN DEER, WI 53223

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/777,834	07/13/2007	Kyle M. Bennett	076565-0154

CONFIRMATION NO. 9330

26371
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

POWER OF ATTORNEY NOTICE

OC000000040844711

Date Mailed: 03/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Reynir Eyjolfsson	: DECISION ON PETITION TO MAKE
Serial No.: 11/777,849	: SPECIAL FOR NEW APPLICATION
Filed: July 13, 2007	: UNDER 37 C.F.R. § 1.102 & M.P.E.P.
Attorney Docket No.: 2476.0090001	: § 708.02

This is a decision on the petition filed July 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 **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.

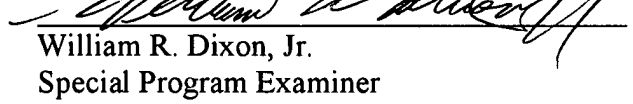
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 9 2008

In re Application of :
Reynir Eyjolfsson :
Application No. 11/777,849 : DECISION ON PETITION
Filed: July 13, 2007 :
Attorney Docket No. 2476.0090001/RWE/JSO :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 15, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center AU 1616 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petition Examiner
Office of Petitions

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HELLER EHRMAN LLP
4350 LA JOLLA DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Yu Brian ZHENG, et al :
Application No. 11/777,952 : DECISION ON PETITION
Filed: July 13, 2007 : TO WITHDRAW
Attorney Docket No. 44435-0005 : FROM RECORD
:

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 A. Moore 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 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 inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: 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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of

DIXON, Charles
Application No. 11/777,964
Filed: July 13, 2007
Attorney Docket No. **CDIXN.001A**

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 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Marc Morley 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.

All future correspondence will be directed to the inventor Charles Dixon at the address indicated below.

There is an outstanding Office action mailed October 31, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CHARLES DIXON**
3060 INDUSTRY STREET, SUITE 101
OCEANSIDE CA 92054

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Paper No.

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Woong-Jae Chang :
Application No. 11/777,974 :
Filed: July 13, 2007 :
Attorney Docket No.: AB-2325 US :
Title: BACKLIGHT ASSEMBLY AND :
LIQUID CRYSTAL DISPLAY HAVING :
THE SAME :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.181

This is a decision on the petition filed April 17, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed July 27, 2007, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 28, 2007. A notice of abandonment was mailed on April 7, 2008.

With this petition, Petitioner has asserted that a response was submitted to the Office on September 26, 2007 in the form of Replacement Drawings. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of mailing, however it does not appear that Petitioner has provided a statement from the individual who executed the same.

However, Petitioner has also submitted a copy of a postcard receipt, which evinces that "Replacement Drawings (15 pgs)" were received in the Office on September 26, 2007[1].

Moreover, Petitioner has indicated that this response was submitted via the "Express Mail" service of the United States Postal Service. Section 1.10(e) of 37 C.F.R sets forth, *in toto*:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioner has included a statement along with a copy of the express mail label (which contains a "date-in" of "9 26 07"). Petitioner has further included a copy of the drawings that were purportedly submitted to the Office on September 26, 2007, and it is clear that the express mail number was placed on these papers. As such, Petitioner has met requirements (1) - (4) of Rule 1.10(e).

---

1 See MPEP § 503.

Regarding the first requirement of Rule 1.10(e), the petition does not appear to indicate when Petitioner first became aware of the failure of the Office to receive these papers. Due to the fact that Petitioner received a postcard receipt from the Office, the undersigned will presume that Petitioner did not learn about the abandonment of this application until receiving the notice of abandonment, and Petitioner must notify the Office if this presumption is not correct.

Pursuant to MPEP § 503 and 37 C.F.R. § 1.10(e), Petitioner has established that the submission was both timely submitted and received in the Office on September 26, 2007. Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing, including the 15 sheets of drawings received with this petition, originally received in the Office on September 26, 2007.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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www.uspto.gov

Zeltiq Aesthetics, Inc.
Perkins Coie LLP
P.O. BOX 1247
SEATTLE WA 98111-1247

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JAN 11 2010

In re Application of :
Mitchell LEVINSON et al. :
Application No. 11/777,992 : DECISION ON PETITION
Filed: July 13, 2007 : TO MAKE SPECIAL
Attorney Docket No. **579688028US** : 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 3769 for action on the merits commensurate with this decision.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

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OCT 26 2009

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Sinnarajah et al. :
Application No.: 11/778000 : ON PETITION
Filing or 371(c) Date: 07/13/2007 :
Attorney Dckt Number: 030034C1D3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 13, 2009. Accordingly, the date of abandonment of this application is July 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue and publication fees[1]; (2) the petition fee; and (3) a proper statement of unintentional delay.

The issue and publication fees have been charged to petitioner's deposit account as authorized in the petition.

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[1] 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. *See* MPEP 711.03(c)(III)(A)(1). Petitioner is advised that if an issue fee has previously been paid in the application as reflected in the Notice of Allowance, the return of Part B (Fee(s) Transmittal form) will be considered a request to reapply the previously paid issue fee toward the issue fee that is now due. For example, if the application was allowed and the issue fee paid, but applicant withdrew the application from issue and filed a Request for Continued Examination (RCE) and the application was later allowed, the Notice of Allowance will reflect an issue fee amount that is due and the issue fee that was previously paid. The MPEP further cautions that because the amount of the fees(s) due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the fees(s), the amount due at the time the fee(s) are paid may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the fees(s), to determine whether the amount of the issue fee due or any required publication fee has changed to avoid the patent lapsing for failure to pay the balance of the issue fee due (37 CFR 1.317) or becoming abandoned for failure to pay the publication fee.

This application is being referred to Technology Center Art Unit 2617 for processing of the Request for Continued Examination ("RCE") and Information Disclosure Statement ("IDS") filed with the present petition in the normal course of business.

Telephone inquiries should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Mattingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road, Suite 370
Alexandria VA 22314

OCT 22 2007

In re Application of: REDDY et al.
Serial No.: 11/778,010
Filed: July 13, 2007
Title: CONDOMS FOR REDUCING FAILURE RATE AND EXTENDING PLEASURE

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 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, 5.3, 6.1-6.3, and 6.5 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2 and 6.4 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 1-34, the Pre-Examination Search Statement pages 1-5, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on July 13, 2007.

Regarding the requirements of section II element 5.2 outlined above, a pre-examination search has been conducted by the petitioner in class 604, subclasses 347, 349, 352, and 364. Petitioner has omitted a critical search area by not searching class 604 subclasses 355 and 346. The petitioner has also neglected entirely to search any portions of either class 427 or 428; a search of class 427, subclass 2.3 and class 428, subclass 35.2 is suggested. The search that has been conducted in class 128 is appropriate. 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 6.4, the petition fails to include a concise explanation of utility as defined in each independent claim. What the petitioner has provided is sufficient but for the fact that petitioner makes no reference to any independent claims but rather refers to "the invention".

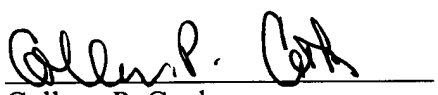
DECISION

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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Mattingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road, Suite 370
Alexandria VA 22314

In re Application of: REDDY et al.
Serial No.: 11/778,010
Filed: July 13, 2007
Title: CONDOMS FOR REDUCING FAILURE RATE AND EXTENDING PLEASURE

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 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 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

Colleen P. Cooke, Special Program Examiner
Technology Center 3700

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AUG 01 2007

TECHNOLOGY CENTER 3600

Avery Enterprises
P.O. Box 238
709 Jay Avenue
Johnson, CO 80534

In re application of
Annamae A. Johnson
Application No. 11/778,037
Filed: July 14, 2007
For: BED ATTACHMENT FOR PREVENTING AND TREATING DECUBITUS ULCERS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on July 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 **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 petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not complete as evidenced by the Notice To File Corrected Application Papers mailed on July 20, 2007. Note requirement 3 stated above.

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 Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

Kjd: 7/28/07

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1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

OCT 08 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasushi Inagaki, et al. :
Application No.: 11/778,139 :
Filed: July 16, 2007 :
Attorney Docket No.: 308842US40 DIV :

This is a decision on the petition, filed October 6, 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 September 22, 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 application is being referred to Technology Center AU 2841 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).

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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FEB 24 2010

In re Application of :
Yasushi Inagaki, et al. :
Application No.: 11/778,139 : ON PETITION
Filed: July 16, 2007 :
Attorney Docket No.: 308842US40 DIV :

This is a decision on the petition, filed February 23, 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 February 12, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2841 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/778,206	07/16/2007	Atsuyuki Manabe	312127US2	1017

7590 08/19/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
NELMS, DAVID C	

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
08/19/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 08/18/2008 BPOWELL
07/16/2007 INTEFSW 00006411 11778206
02 FC:1111 -500.00 OP
04 FC:1201 -400.00 OP

Refund Ref:
08/18/2008 0030060012

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1009

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Joao R. Talamoni	: DECISION ON REQUEST FOR
Patent Number	: 7658862	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/778,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Application of :
Henrik Sonderskov Klint et al :
Application No. 11/778,274 : ON PETITION
Filed: July 16, 2007 :
Attorney Docket No. 6472.210-US

This is a decision on the petition, filed June 1, 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 April 29, 2010 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 3767 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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SEP 18 2007

TECHNOLOGY CENTER 3600

Ogilvy Renault LLP
1981 McGill College Avenue
Suite 1600
Montreal, Canada H3A2Y-3

In re application of : **DECISION ON PETITION**
Yiwen Xu et al. : **TO MAKE SPECIAL FOR**
Application No. 11/778,293 : **NEW APPLICATION**
Filed: July 16, 2007 : **UNDER 37 CFR 1.102**
For: METHOD AND SYSTEM FOR PARTITIONING A CONTINENTAL ROADWAY NETWORK FOR AN INTELLIGENT VEHICLE HIGHWAY SYSTEM

This is a decision on the petition filed on July 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 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.6.1, 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, in addition to the subclasses already searched, the search needs to include a search of 701/208, 209, 210 & 213; and 340/995.13, 995.15 & 995.23.
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 too narrowly directed as requiring search terms as "intelligent transportation system" and limiting to Abstracts. The search needs to be broadened to encompass search terms for related items. 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 sufficiently broad to be used in this application is provided below:

> ((traffic near data) same vehicle) and ((digitized or partition or segment) same (highway or road or interstate)) and (nodes or links)

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. The same search logic could be used in any non-patent literature (NPL) search as well.

Furthermore, the indication in the Support Document that no references teach any of the dependent claims exposes additional evidence of the search not encompassing the claimed invention. Some of the above claims, for example, but certainly not limited to, claim 2, appears to contain limitations that are quite common in the art and it strains credulity to assert that nowhere in the prior art are located these additional claimed limitations. It appears that the search may have been completed on the concept of the disclosed invention rather than the "claimed invention " as is required.

As to condition II.6.1, an 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) will be deemed insufficient for lack of identification and explanation. 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.

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.

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 (not just the independent 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. Also, when explaining that a limitiation is not taught by the prior art it should be made clear which specific portion of the limitation is not taught or make it clear that no part of the limitation is taught by any of the references.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at:
http://www.uspto.gov/web/patents/accelerated/.

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 separate limitation is

provided support. Listing broadly a number of figures or paragraphs does not comply with what is required.

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: 9/16/07

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NOV 05 2007

TECHNOLOGY CENTER 3600

Ogilvy Renault LLP
1981 McGill College Avenue
Suite 1600
Montreal, Canada H3A2Y-3

In re application of : **DECISION ON PETITION**
Yiwen Xu et al. : **TO MAKE SPECIAL FOR**
Application No. 11/778,293 : **NEW APPLICATION**
Filed: July 16, 2007 : **UNDER 37 CFR 1.102**
For: METHOD AND SYSTEM FOR PARTITIONING A CONTINENTAL ROADWAY NETWORK FOR AN INTELLIGENT VEHICLE HIGHWAY SYSTEM

This is a decision on the renewed petition filed on October 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 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: 11/4/07

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ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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OCT 01 2008

In re Application of :
Alexander B. Maurer, et. al. :
Application No. 11/778,297 : DECISION ON PETITION
Filed: July 16, 2007 :
Attorney Docket No. F093 1090.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before October 24, 2007, as required by the Notice to File Corrected Application Papers, mailed August 24, 2007. Accordingly, the date of abandonment of this application is October 25, 2007.

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 containing 4 pages; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for processing into a patent.

Brian Brown
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.
11/778,301	07/16/2007	Takashi ENOMOTO	311710US2SDIV	1196

7590 03/06/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
PATEL, NIMESHKUMAR D	

ART UNIT	PAPER NUMBER
2879	

NOTIFICATION DATE	DELIVERY MODE
03/06/2008	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,645,768 B2
Ser. No. : 11/778,319
Inventor(s) : Gregory et al.
Issued : Jan. 12, 2010
Title : PRODUCTION OF POLYKETIDES AND OTHER NATURAL PRODUCTS
Docket No. : AM102786 C3
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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VARIAN SEMICONDUCTOR EQUIPMENT ASSC., INC.
35 DORY RD.
GLOUCESTER, MA 01930-2297

Mail Date: 04/26/2010

Applicant	: Jonathan Gerald ENGLAND	: DECISION ON REQUEST FOR
Patent Number	: 7655933	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/778,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/778,352	07/16/2007	Hironobu SHIBATA	312137US2	1281

7590 06/04/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
GORDON, BRYAN P	

ART UNIT	PAPER NUMBER
2834	

NOTIFICATION DATE	DELIVERY MODE
06/04/2008	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:
06/03/2008 0030056444

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXX1002

Adjustment date: 06/03/2008 NFARMER
07/17/2007 INTEFSW 00001243 11778352
02 FC:1111 -500.00 OP

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JUN 05 2009

Application Serial No. 11/778,368
Reply to office action of April 6, 2009

PATENT
Docket: CU-5834

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Dong Keun KIM et al.] Art Unit: 2827
]
Serial No: 11/778,368] Ex.: Le, Thong Quoc
]
Filed: July 16, 2007]

For: SEMICONDUCTOR MEMORY DEVICE INCLUDING A COLUMN DECODER ARRAY

Certification under 37 C.F.R. §1.8(b)

The USPTO Central Fax No. (571) 273-8300
Date of Fax Transmittal: June 5, 2009
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted to the United States Patent and Trademark Office to the fax number and on the date indicated above.

Kathryn Rodriguez

Ok, Enter /TL/
07/24/2009

AMENDMENT UNDER 37 CFR 1.111

Mail Stop Amendment
The Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

In response to the office action dated April 6, 2009, the applicants submit the following responsive amendment in the above-identified application. This amendment is considered to place the application in better condition for allowance. No fee is believed to be required with this amendment, but, if this is not the case, please charge the requisite fee (or credit any overpayment) to Deposit Account No. 12-0400.

Amendments to the Claims are reflected in the listing of claims, which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

PAGE 1/7 * RCVD AT 6/5/2009 3:55:25 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/46 * DNIS:2738300 * CSID:312 427 6663 * DURATION (mm-ss):01-32

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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.
11/778,382	07/16/2007	Hitoshi NAGATA	312200US2	1327

7590 06/17/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
JONES, ERIC W	

ART UNIT	PAPER NUMBER
2892	

NOTIFICATION DATE	DELIVERY MODE
06/17/2009	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:
05/16/2009 0030071249

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1008

Adjustment date: 06/16/2009 NFARMER
07/17/2007 INTEFSW 00001566 11778382
02 FC:1111 -500.00 OP

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Christopher Paradies, Ph.D.
Fowler White Boggs Banker, P.A.
501 E. Kennedy Boulevard, Ste. 1900
Tampa, FL 33602

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Ronald J. Casanta :
Application No. 11/778,403 : DECISION ON PETITION
Filed: July 16, 2007 : TO WITHDRAW
Attorney Docket No. P053780-01UT : FROM RECORD
:

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 27, 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 Christopher Paradies on behalf of all attorneys/agents associated with customer number 43749. All attorneys/agents associated with customer number 43749 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ronald J. Casanta
P.O. Box 7121
Naples, FL 34102

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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
11/778,403	07/16/2007	Ronald J. Casanta	P053780-01UT

CONFIRMATION NO. 1371

POWER OF ATTORNEY NOTICE

43749
CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA, FL 33602

OC000000035001424

Date Mailed: 03/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
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P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of :
Thurlow, et al. : DECISION ON PETITION
Application No. 11/778,444 :
Filed: July 16, 2007 :
Attorney Docket No. W115 1050.1 :

This is a decision on the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131, filed May 24, 2010 and supplemented May 25, 2010.

The supplemental papers filed May 25, 2010 assert that consideration under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 is no longer necessary given that the joint inventors have each executed a declaration under 37 CFR 1.131.

In view thereof, the petition is **DISMISSED AS MOOT**.

This application is being forwarded to Group Art Unit 3628 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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LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE COURT
HILLSBORO, OR 97124-6421

Mail Date: 04/20/2010

Applicant	: Fulong Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7573770	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/778,457	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 24 2007

Technology Center 2100

STIMSON, SHIN & ASSOCIATES, LLP
1730 M STREET, NW
SUITE 807
WASHINGTON DC 20036

In re Application of:
Moon-Sang Jeong
Serial No.: 11/778,466
Filed: July 16, 2007
Docket: 0201-0055
Title: MULTI-TASKING APPARATUS AND METHOD IN PORTABLE TERMINAL

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 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 – I.4, II.1 – II.4, II5.3, II.6.1, II 6.2, II.6.4, II6.5 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.1, 5.2 and II.6.3 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] and items II.5, 5.1 and 5.2 above, the preexamination search must be directed to the (instant) claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation . In particular, with respect to items 5 and 5.1 above, for database searches, the search logic used as a query is required. However, each of items 1) – 5), 7), 9), 10) – 13) in the preexamination search document includes at least one search query listing a combination of keywords without specifying any search operator such as "and" , "or" etc. (see, e.g. queries S1 and S2 under item 1) on page 2 of the preexamination search). Correction and/or clarification is required. Further, with respect to item II.5.2 above, claim limitations some of which have been identified as patentable features distinguishing the claimed invention from the cited prior art (such as "switching the pocket-sized ..device from the MP3 mode to a standby mode while the playing of the music file continues", "selecting and performing at least one function...from the standby mode" and "continuing to display" in at least claim 1) or any search terms covering these limitations do not appear to have been included in the search. Petitioner should review all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the search covered these concepts, and update the search and/or provide any clarifications if deemed necessary . Additionally, since the petition does not indicate in what manner the key words were used with operators in at least some of the search queries, it is unclear whether or not the claims were given the broadest reasonable interpretation.

Regarding the requirement of item 6.3 above, while petitioner discusses why none of the references listed in section 9(A) of the support document anticipates any of these claims, the support document does not provide any explanation why the instant claims would not be obvious in view of the combined teachings of the references listed in section 9(A) of the Accelerated Examination support Document. In addition, the Detailed Explanation of patentability provided in section 9(C) does not appear to cover all of the independent claims 1, 9 and 17, as asserted. Specifically, Applicant asserts that each of the references deemed to be most closely related to the claimed invention fails to teach a combination of features, however, only claim 1 appears to include all of these features, and claims 9 and 17 do not appear to recite all of these features. Therefore, the examination support document lacks an adequate explanation of patentability for claims 9, 17 and their dependent claims 11-12, 14-16 and 19-20. Correction is required.

Further, applicant has provided a copy of an office action received from the Korean Intellectual Property Office in the counterpart foreign priority application 10-2005-0079921 without providing any English translation of the document. It is unclear how the office action of is relevant to the patentability of the claimed invention in the instant application. Clarification is required.

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[1] MPEP 8th ed. rev 5 August 2006

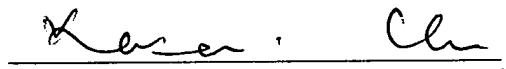
DECISION

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 the undersigned at (571) 272-3719.



Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/778,466	07/16/2007	Moon-Sang JEONG	0201-0055	1475

68103 7590 10/19/2007

Jefferson IP Law, LLP
1730 M STREET, NW
SUITE 807
WASHINGTON, DC 20036

EXAMINER	
AN, MENG AI T	

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
10/19/2007	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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STIMSON, SHIN & ASSOCIATES, LLP
1730 M STREET, NW
SUITE 807
WASHINGTON DC 20036

In re Application of:
Moon-Sang Jeong
Serial No.: 11/778,466
Filed: July 16, 2007
Docket: 0201-0055
Title: MULTI-TASKING APPARATUS AND METHOD IN PORTABLE TERMINAL

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 September 18, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted July 16, 2007 was dismissed in the decision mailed on August 24, 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 the undersigned at (571) 272-3719.

/Kakali Chaki/

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	DECISION ON PETITION TO
Application Number: 11/778481	:	WITHDRAW HOLDING OF
Filing Date: 07/16/2007	:	ABANDONMENT
Attorney Docket Number:	:	
P26,890-A US1	:	

This is a decision on the petition filed on November 4, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on December 1, 2007, for failure to timely submit the statutory basic filing fee, surcharge for its late filing, additional claim fees, the application search fee, and the application examination fee, as required by the Notice to File Missing Parts of Nonprovisional Application mailed on July 31, 2007, which set a two (2) month shortened period for reply. On December 28, 2007, a two (2) month extension of time was filed. Notice of Abandonment was mailed on September 4, 2008.

Petitioner asserts that a proper response, in the form of payment of the required fees, was timely filed with an extension of time on December 28, 2007.

Upon review, on December 28, 2007, payment of the required filing, search, and application examination fees set forth in the Notice to File Missing Parts of Nonprovisional Application mailed on July 31, 2007, was filed. The fee required for a two (2) month petition for extension of time was also filed on December 28, 2007. However, a three (3) month extension of time and fee was required to make the reply filed on December 28, 2007, a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on July 31, 2007.

In this regard it is noted that the Electronic Acknowledgement Receipt filed on December 28, 2007, states "The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)."

The fee for a three (3) month extension of time is under the provision of 37 CFR 1.17(a)(3), however, rather than under 37 CFR 1.21. In that petitioner failed to provide a general authorization to charge all fees, or all fees under 37 CFR 1.17, no authorization was present on December 28, 2007, to charge the proper extension of time fee under 37 CFR 1.17(a)(3).

MPEP 509.01 states, in pertinent part, that:

> 37 CFR 1.25(b) states that:
>
> A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed.
>
> As provided in 37 CFR 1.311(b), an authorization to charge the issue fee (37 CFR 1.18) to a deposit account may be filed in an individual application only after the mailing of the notice of allowance. 37 CFR 1.25(b) also makes clear that a general authorization made prior to the mailing of a notice of allowance does not apply to issue fees under 37 CFR 1.18.
>
> ...
>
> Many applications contain broad language authorizing any additional fees which might have been due to be charged to a deposit account. The U.S. Patent and Trademark Office will interpret such broad authorizations to include authorization to charge to a deposit account fees set forth in 37 CFR 1.16, and 1.17...
>
> An authorization to charge fees relating only to a specific paper, could read "The Director is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No.——." Such an authorization would cover

> situations in which a check to cover a filing and/or a processing fee under 37 CFR 1.16 and 1.17 was omitted or was for an amount less than the amount required. An authorization covering any omission or deficiency in a check or credit card payment applies to the processing fee under 37 CFR 1.21(m) in the event a check or credit card payment is refused or charged back by a financial institution, regardless of whether such deposit account authorization is limited to other fees (e.g., fees under 37 CFR 1.16 and 1.17). If a check or credit card payment for the issue fee is refused or charged back by a financial institution, the application may be held abandoned for failure to pay the issue fee within the statutory period for reply. See MPEP § 1306.
>
> **It is extremely important that the authorization be clear and unambiguous. If applicants file authorizations which are ambiguous and deviate from the usual forms of authorizations, the Office may not interpret the authorizations in the manner applicants intend and may return the fees. As a result, applicants could be subject to further expenses, petitions, etc. in order to have a particular fee charged to a deposit account (which was not charged as intended) or to resubmit a fee(s) due to an ambiguous authorization.**
>
> (emphasis added)

Accordingly, the application was properly held abandoned for failure to timely submit a reply to the Notice to File Missing Parts of Nonprovisional Application mailed on July 31, 2007.

Petitioner may wish to consider filing a petition to revive the application under 37 CFR 1.137(b).

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 Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

[1] 37 CFR 1.181(f).

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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-09

FOX ROTHSCHILD LLP
2000 MARKET STREET
10th Floor
PHILADELPHIA PA 19103

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FEB 0 4 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Liu et al. :
Application Number: 11/778481 :
Filing Date: 07/16/2007 :
Attorney Docket Number: :
P26,890-A US1 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on December 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on December 1, 2007, for failure to timely submit the statutory basic filing fee, surcharge for its late filing, additional claim fees, the application search fee, and the application examination fee, as required by the Notice to File Missing Parts of Nonprovisional Application mailed on July 31, 2007, which set a two (2) month shortened period for reply. On December 28, 2007, a two (2) month extension of time was filed. Notice of Abandonment was mailed on September 4, 2008. The petition to withdraw the holding of abandonment filed on November 4, 2008, was dismissed on November 26, 2008.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the required filing, search, and examinations fees, and the late filing surcharge filed on December 28, 2007, is acknowledged.

Receipt of the petition fee filed on December 23, 2008, is acknowledged.

The application is 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

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

ROSENBAUM & SILVERT, P.C.
1480 TECHNY ROAD
NORTHBROOK, IL 60062

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
Carlos E. Salas, et. al. :
Application No. 11/778,488 : DECISION ON PETITION
Filed: July 16, 2007 : TO WITHDRAW FROM
Attorney Docket No. 6041-003 : 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 April 30, 2010.

The request is **APPROVED**.

The request was signed by J. Peter Taredes on behalf of himself and all attorneys/agents of record. Therefore, J. Peter Taredes and all the attorneys/agents of record have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

This application became abandoned for failure to respond to the Office action mailed October 19, 2009. A Notice of Abandonment was mailed on May 3, 2010.

The change of correspondence address has been accepted. Thus, all future communications from the Office will be directed to the first named signing inventor at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-8226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Carlos E. Salas
Rua Liguria 448
Bairro Bandeirantes
Belo Horizonte 31340-360
BRAZIL

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
11/778,488	07/16/2007	Carlos E. Salas	6041-003

CONFIRMATION NO. 1515

POWER OF ATTORNEY NOTICE

29335
ROSENBAUM & SILVERT, P.C.
1480 TECHNY ROAD
NORTHBROOK, IL 60062

Date Mailed: 06/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2010.

- 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.

/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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Devang Shah et al.	:	
Application No. 11/778,528	:	DECISION ON PETITION
Filed: July 16, 2007	:	TO WITHDRAW
Attorney Docket No. 092888-3503	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed July 15, 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 38706 has been revoked by the assignee of the patent application on August 18, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: HDC LLP
3239 El Camino Real, Suite 220
Palo Alto CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/08/2010

Applicant	: Mitsuyori Saitoh	: DECISION ON REQUEST FOR
Patent Number	: 7642729	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/778,530	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **350** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Scully Scott Murphy & Presser, Pc
400 Garden City Plaza
Suite 300
Garden City NY 11530

OCT 26 2007

In re Application of: YOKOI et al.
Serial No.: 11/778,531
Filed: July 16, 2007
Title: CAPSULE-TYPE MEDICAL DEVICE AND MEDICAL 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 July 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: 5.3, 6.1, 6.2, 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, 6.3, 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

1-17, the Pre-Examination Search Statement pages 1-10, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on July 16, 2007.

Regarding the requirements of section II element 5.2 outlined above, the pre-examination search conducted by the petitioner is far too limited. The only search conducted including US patents and US patent publications (database search 1) is too limited for several reasons. The search is limited only to references published on or before July 29, 2001; that a reference may be overcome by the instant application being entitled to an earlier effective date based on a claim to priority does not relieve the petitioner from performing a pre-examination search of all claims while giving the claims the broadest reasonable interpretation, which search should NOT be limited by a possible priority date. Any references which are most closely related to the instantly claimed invention but could be overcome by such priority date would still need to be discussed. The search is also limited by text; no classification search of US patents and US patent publications has been performed but petitioner has rather conducted only a combination of classification searching with text searching. The text search is too narrow for being limited by terms such as "swallow or digest". which are not required by any claim. Petitioner has omitted critical searching by failing to perform a search which is not limited by text in the appropriate search areas of class 600, subclasses 109, 160, 118, 407, 475 and also in class 348, subclasses 65 and 74. The remaining searching performed (i.e. not US patents and US patent publications) suffers from the same deficiencies of being improperly limited by date and including text search terms not found in any of the claims. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-12, including the specific limitations of the dependent claims, 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 6.3 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 an initial note, application as merely referred to "all of the references" throughout this section rather than discussing each claim with respect to *each* reference. Even if this were to be found acceptable, this section is deficient for additional reasons. Petitioner avers that all of the references fail to teach or suggest "features required in dependent claims 2-4" and also "all features recited in claim 5 and intervening claims as a whole". This discussion of patentability is deficient for several reasons. *Each* claim should be discussed with respect to each reference with *particularity* to how each claim is patentable. Furthermore, merely stating that the reference do not teach or suggest claims 2-4, 5, and intervening claims is not only deficient for lack of particularity to each specific claim and reference to specific limitations of each claim which are patentable, but also appear to be false given that the petition has provided, for element 6.2, a discussion of this claims and what each reference teaches with respect to these claims. While specific details are discussed here with respect to what petitioner ahs provided for claims 1-5, it is noted that the same is true of the discussion of claims 6-12 but will not be repeated for the sake of brevity; this discussion however is likewise deficient. Also it is further noted that the discussion of claim 6 refers to quoted language which is not exactly as recited in the claim itself. Therefore, petitioner has failed to *particularly* point out the patentability of *each* of claims 1-12 with respect to *each* reference. 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 petition fails to provide this showing entirely with respect to JP 2001-333125 or US 10/205,513 each to which priority is claimed. Though petitioner makes reference to JP 2001-333125 on page 13, it is noted that none of the citations in this section refer to JP 2001-333125; all citations are only to JP 2001-229952. It is also noted that petitioner refers to US 10/205,513 only on page 16 at the very conclusion of this section and provides no citations to this priority document. 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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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH TX 76134

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of :
ROBIN and WIE BERGAMINI : DECISION REFUSING STATUS
Application No. 11/778,538 : UNDER 37 CFR 1.47(a)
Filed: 07/16/2007 :
Attorney Docket No. 2876 US A :

This is in response to the petition under 37 CFR 1.47(a), filed January 30, 2008.[1]

The petition is **dismissed**.

Applicants are 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 address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is necessary for filing a request for reconsideration.

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.

Applicants lack item (1) as set forth above.

As to item (1), applicants assert that Alan A. Robin, the non-signing inventor, refuses to sign the declaration for the present application. However, applicants have not provided any facts or

[1] Applicants obtained an extension of time for response within the fourth month. Therefore, the petition is timely filed.

documentary evidence to support their assertion. Furthermore, it is not apparent if applicants presented Mr. Robin with a complete copy of the application papers as filed with their request to sign the declaration.

Pursuant to MPEP 409.03(d)(II),

> 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 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. 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 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

To demonstrate that the Mr. Robin refused to join in the application, applicants must show on renewed petition that a complete copy of the present nonprovisional application, including the specification, claims and drawings, was presented to the non-signing inventor, personally or through his designated representative, and that he did not respond to or refused the request to sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event.

A corrected filing receipt, setting for the inventive entity in the present application, accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 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 may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior 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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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
11/778,538	07/16/2007	1612	1130	2876 US A	3	1

CONFIRMATION NO. 1622

CORRECTED FILING RECEIPT

26356
ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

Date Mailed: 03/26/2008

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)

Alan L. Robin, Cockeysville, MD;
Michael Van Wie Bergamini, Fort Worth, TX;

Power of Attorney: The patent practitioners associated with Customer Number 26356

Domestic Priority data as claimed by applicant

This application is a CIP of 11/549,578 10/13/2006
which claims benefit of 60/726,740 10/14/2005
and claims benefit of 60/753,751 12/23/2005

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/778,538**

Projected Publication Date: 05/29/2008

Non-Publication Request: No

Early Publication Request: No

Title

Method for Treating Primary and Secondary Forms of Glaucoma

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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FORT WORTH TX 76134

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of	:	
ROBIN and WIE BERGAMINI	:	DECISION ACCORDING STATUS
Application No. 11/778,538	:	UNDER 37 CFR 1.47(a)
Filed: 07/16/2007	:	
Attorney Docket No. 2876 US A	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 26, 2008.[1]

The petition under 37 CFR 1.47(a) is **granted**.

With the present renewed petition, applicants' representatives provided the following statement of facts:

[] A copy of the CIP application as filed was provided to Alan L. Robin on July 17, 2007.

[] The oath or declaration for the present application was provided to Dr. Robin via Federal Express (No. 7987 4235 0886) on August 17, 2007 (delivery confirmed).

[] On August 27, 2008, Applicants' representative, Gregg C. Brown, received an email from Dr. Robin's attorney, Mr. Bernard Rhee, requesting that all correspondence and communication with respect to this CIP application, its parent application, and related foreign and US patent applications directed to the subject matter of the present invention be directed to Mr. Rhee.

[] A second copy of the oath or declaration, along with a complete copy of the CIP application as filed, was presented to Mr. Rhee, via Federal Express (No. 7917 6584 4468) on September 19, 2007 (delivery confirmed).

[1] Applicants obtained an extension of time for response within the fourth month. Therefore, the petition is timely filed.

[] Dr. Robin refused to sign the second copy of the oath or declaration, which was communicated to Applicants' representative, Gregg C. Brown, through his attorney, Mr. Bernard Rhee, via telephone conversation on November 7, 2007.

In view of the above, applicants have established that they provided Alan L. Robin , the non-signing inventor with a complete copy of the application papers and a declaration; however, he refused to join in the filing of the application.

The above-identified application and papers have been reviewed and are found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to the Technology Center AU 1612 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Alan L. Robin
13 Ivey Trace Court
Cockeysville, Maryland 21030

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of :
ROBIN and WIE BERGAMINI : LETTER
Application No. 11/778,538 :
Filed: 07/16/2007 :
Attorney Docket No. 2876 US A :

Dear Dr. Robin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. Requests for information regarding your application should be directed to the File Information Unit at 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).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 27 2009

OFFICE OF PETITIONS

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

In re Application of :
James G. METZ, et al. :
Application No. 11/778,564 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 July 8, 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 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

In re Application of :
James G. METZ, et al. :
Application No. 11/778,575 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C3** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 July 8, 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 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET
SUITE 4100
DENVER CO 80203

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OFFICE OF PETITIONS

In re Application of	:	
Cornish et al.	:	DECISION ON PETITION
Application No. 11/778,589	:	TO WITHDRAW
Filed: July 16, 2007	:	FROM RECORD
Attorney Docket No. 53421-10002	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 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 Mark L. Yaskanin on behalf of all attorneys of record who are associated with Customer No. 79362.

All attorneys/agents associated with Customer Number 79362 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is an outstanding Office action mailed April 2, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YULEX CORPORATION
7860 WEST SMITH-ENKE ROAD
MARICOPA, AZ 85239-3010

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OFFICE OF PETITIONS

SHERIDAN ROSS P.C.
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DENVER, CO 80202

In re Application of :
James G. METZ, et al. :
Application No. 11/778,590 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C5** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 July 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1656 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.*

PTO/SB/130 (03-08)
Approved for use through 04/30/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/778,596	Confirmation Number	1720	Filing Date	2007-07-16
Attorney Docket Number (optional)	DGCM-01021US0	Art Unit	2618	Examiner	
First Named Inventor	Gabriel K. Wong				
Title of Invention	NETWORK COMMUNICATION SYSTEM WHEREIN MULTIPLE CONTROLLERS COMMUNICATE SO THAT ONE NODE CONTACTING A FIRST CONTROLLER CAN COMMUNICATE WITH ANOTHER NODE CONTACTING A SECOND CONTROLLER AND ACKNOWLEDGE BACK THAT COMMUNICATION IS SUCCESSFUL				

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
Gabriel	K.	Wong	

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	/Thomas A. Ward/	Date (YYYY-MM-DD)	2008-04-07
Name	Thomas A. Ward	Registration Number	35732

PTO/SB/130 (03-08)
Approved for use through 04/30/2008. 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 contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Application of
Gabriel K. Wong

Application No. 11778596

Filed: July 16,2007

Attorney Docket No. DGCM-01021US0

: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 07-APR-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
James G. METZ, et al. :
Application No. 11/778,598 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C7** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 19, 2009 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
James G. METZ, et al. :
Application No. 11/778,605 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C10** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 25, 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 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
James G. METZ, et al.	:	
Application No. 11/778,608	:	DECISION GRANTING PETITION
Filed: July 16, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C11**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 25, 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 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of :
James G. METZ, et al. :
Application No. 11/778,614 : DECISION GRANTING PETITION
Filed: July 16, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2997-49-4-C13** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 23, 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 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1656 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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OFFICE OF PETITIONS

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

In re Application of
James G. METZ, et al.
Application No. 11/778,617
Filed: July 16, 2007
Attorney Docket No. **2997-49-4-C14**

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 July 23, 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 25, 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 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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AUG 15 2007

TECHNOLOGY CENTER 3600

Williamson Intellectual Property Law, LLC
1870 The Exchange, Suite 100
Atlanta, GA 30339

In re application of
Jeff Beavin
Application No. 11/778,689
Filed: July 17, 2007
For: BALL COLLECTING APPARATUS AND METHOD OF USE THEREOF

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on July 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 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, in addition to the single subclass already searched, the search needs to include a search of 294/19.2, 206/315.9, 56/328.1 and 473/460.
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 too narrowly directed to require a device for "tennis AND golf" (which obviously would eliminate hits for tennis OR golf balls, as well as produce), but should be broadened to encompass search terms for related items. 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 sufficiently broad to be used in this application is provided below:

(fruit or ball or nut) with (collect$ or retreiv$)

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.

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 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. It is noted that there are many recitations of limitations that are listed as being related to the reference in various ways (i.e., see Fig.1) but it is not always clear if the limitation (or a portion thereof) is clearly taught by the reference or not. Also the indication that "...of which some of the elements **may be taught** by the following references:" is not sufficient to indicate what is clearly taught by a reference. That 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 (not just the independent 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. Also, when explaining that a limitiation is not taught by the prior art it should be made clear which specific portion of the limitation is not taught or make it clear that no part of the limitation is taught by any of the references.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at:
http://www.uspto.gov/web/patents/accelerated/.

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 provides support. Listing broadly a number of figures or paragraphs does not comply with what is required.

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: 8/13/07

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TECHNOLOGY CENTER 3600

Williamson Intellectual Property Law, LLC
1870 The Exchange, Suite 100
Atlanta, GA 30339

In re application of
Jeff Beavin
Application No. 11/778,689
Filed: July 17, 2007
For: BALL COLLECTING APPARATUS AND METHOD OF USE THEREOF

: **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 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: 9/16/07

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1000 TOWN CENTER
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SOUTHFIELD MI 48075-1238

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OFFICE OF PETITIONS

In re Application of
Allen Dennis Roche et al.
Application No. 11/778,701
Filed: July 17, 2007
Attorney Docket No. 81137698

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed on July 17, 2007 under 37 CFR 1.47.

The petition is **GRANTED**.

The above-identified application was filed on July 17, 2007 with the application, naming Allen Dennis Roche and David Robert Collins as joint inventors. The oath or declaration filed with the application was signed only by joint inventor Collins and, the instant petition filed with the application, seeks status under 37 CFR 1.47, claiming that joint inventor Roche refuses to join in the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to the non-signing inventor at his last known address and that he has not responded. The fact that he has been forwarded the application papers and has not to date returned any executed documents, we will construe his actions to be that of a refusal.

The petition fee in the amount of $200.00 has been charged to deposit account no. 07-0849.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing

to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
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.
11/778,715	07/17/2007	Torsten Kuehn	01-1131-3-D2	1957

28518 7590 06/07/2010

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
RIDGEFIELD, CT 06877-0368

EXAMINER	
WEAVER, SUE A	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
06/07/2010	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):

USPTO.e-Office.rdg@boehringer-ingelheim.com

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
RIDGEFIELD CT 06877-0368

In re Application of:
KUEHN, TORSTEN et al
Serial No. 11/778,715
Filed: July 17, 2007
Docket: 01-1131-3-D2
Title: CONTAINER PROVIDED WITH A PRESSURE EQUALIZATION OPENING

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on April 21, 2010 under 37 CFR 1.181 requesting withdrawal of the requirement to submit a list of all pending claims in the Notice of non-compliant Amendment mailed February 25, 2010 because the applicant has not amended any claims.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. Since the applicant does not wish to submit a list of the claims when there is no claim amendment presented in the responses filed on October 28, 2009 and January 8, 2010, the examiner has been requested to accept the amendments as filed. The requirement to submit a list of all pending claims is withdrawn. The Notices of non-compliant Amendment mailed December 22, 2009 and February 25, 2010 are both withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3781 for consideration of the amendments filed on October 28, 2009 and January 8, 2010. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Robert Olszewski, Director
Technology Center 3700

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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS, MI 48304

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Kendall Roger Swenson, et al :
Application No. 11/778,737 : DECISION ON PETITION
Filed: July 17, 2007 : TO WITHDRAW
Attorney Docket No. SWIT 1020 : FROM RECORD
:

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 30, 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 Jerome R. Drouillard on behalf of the attorneys of record associated with Customer No. 27256.

The attorneys of record associated with Customer No. 27256 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KENDALL ROGER SWENSON
5988 ESTATE COURT,
ERIE, PA 16509

cc: GENERAL ELECTRIC COMPANY
1 RIVER ROAD
SCHENECTADY, NY 12345

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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
11/778,737	07/17/2007	Kendall Roger Swenson	224593 (36708-2)

CONFIRMATION NO. 1991

POWER OF ATTORNEY NOTICE

27256
Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

Date Mailed: 06/08/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

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JAN 1 2 2009

In re Application of	:	
Michal Grabowski et al	:	
Application No. 11/778,752	:	ON PETITION
Filed: July 17, 2007	:	
Attorney Docket No. MELD 1003-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2169 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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WILLIAM C. CAHILL
155 PARK ONE
2141 E. HIGHLAND AVENUE
PHOENIX AZ 85016

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DEC 17 2008

In re Application of :
Johnson et al. :
Application No. 11/778,814 : DECISION ON PETITION
Filed: July 17, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7017-A-01 :

This is a decision on the petition, filed August 26, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 8, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 26, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center Art Unit 3626 for examination in due course.

Charlema Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/778,814	07/17/2007	Philip L. Johnson	7017-A-01

CONFIRMATION NO. 1111

33136
WILLIAM C. CAHILL
155 PARK ONE
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NONPUBLICATION RESCISSION LETTER

Date Mailed: 12/15/2008

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 03/26/2009.

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".

/crgrant/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101