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**17950 PRESTON RD, SUITE 1000**
**DALLAS TX 75252-5793**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| McClellan et al. | : | |
| Application No. 11/805,238 | : | ON PETITION |
| Filed: May 22, 2007 | : | |
| Attorney Docket No. IWI-001 | : | |

This is a decision on the petition filed August 24, 2007, requesting that the above-identified application be accorded a filing date of May 22, 2007, rather than the presently accorded date of May 23, 2007. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 22, 2007, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV915870881US, showing a handwritten "date-in" of "5-27-07," along with a receipt stamp of "May 22, 2007." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." The Express Mail label number also appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated May 22, 2007 on the cover page for the application papers.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on May 22, 2007 at 5:38 p.m. at the Dallas, TX USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on May 22, 2007. Accordingly, the instant application is entitled to a filing date of May 22, 2007 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of May 22, 2007, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2612 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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| | | |
|---|---|---|
| In re Application of | : | |
| Indru J. Primlani | : | |
| Application No. 11/805,248 | : | DECISION ON PETITION |
| Filed: May 21, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 480238.401C1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a 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.

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 3746 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

**PETER B. GOLDMAN**
**250 NORTH MEYER AVENUE**
**TUCSON AZ 85701**

| | | |
|---|---|---|
| In re Application of | : | |
| **EISENBERGER,** Peter et al. | : | |
| Application No. 11/805,271 | : | DECISION ON PETITION |
| Filed: May 21, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **6236.102US** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 2009.

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

A review of the file record indicates that the power of attorney to Peter B. Goldman has been revoked by the applicants of the patent application on October 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BARRY G MAGIDOFF, ESQ., PAUL J. SUTTON, ESQ.**
**SUTTON MAGIDOFF LLP**
**909 THIRD AVENUE - 27 FL**
**NEW YORK NY 10022**

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TESSERA
LERNER DAVID et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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FEB 15 2008

| | |
|---|---|
| In re Application of | : |
| Hideki Kotake et al. | : |
| Application No. 11/805,300 | : DECISION ACCORDING STATUS |
| Filed: May 24, 2007 | : UNDER 37 CFR 1.47(a) |
| Attorney Docket No. TIMI 3.0-052 CONT CONT | : |

This is in response to the petition filed January 25, 2008 under 37 CFR 1.47(a).

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

The above-identified application was filed on May 24, 2007, without an executed oath or declaration. Accordingly, on June 21, 2007, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a) filed with a five month extension of time request was filed arguing that joint inventors Kotake, Iijima, Hyodo and Yoshino refuse to sign the declaration and thus by their 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 forwarded by mail or email to the non-signing inventors, that the application papers have been received by the non-signing inventors but that to date, neither has returned an executed copy of the oath or declaration.

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 inventors at the addresses 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

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HIDEKI KOTAKE
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TOSHIMA KU, TOKYO
JAPAN170-0005

TOMOO IIJIMA
C/O NORTH CORPORATION
32-1, MINAMI OTSUKA 3-CHOME
TOSHIMA KU, TOKYO
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TOKU YOSHINO
C/O NORTH CORPORATION
32-1, MINAMI OTSUKA 3-CHOME
TOSHIMA KU, TOKYO
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KIYOSHI HYODO
C/O NORTH CORPORATION
32-1, MINAMI OTSUKA 3-CHOME
TOSHIMA KU, TOKYO
JAPAN170-0005

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**FEB 15 2008**

In re Application of
Hideki Kotake et al.
Application No. 11/805,300
Filed: May 24, 2007
For: **STRUCTURE AND METHOD OF MAKING INTERCONNECT ELEMENT HAVING METAL TRACES EMBEDDED IN SURFACE OF DIELECTRIC**

Dear Mr. Kotake, Mr. Iijima, Mr. Yoshino and Mr. Hyodo:

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

As named inventors 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 Petitions Attorney at (571) 272-3212. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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LERNER DAVID et al.
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WESTFIELD NJ 07090

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32-1, MINAMI OTSUKA 3-CHOME
TOSHIMA KU, TOKYO
JAPAN170-0005

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In re Application of
Hideki Kotake et al.
Application No. 11/805,300
Filed: May 24, 2007
For: **STRUCTURE AND METHOD OF MAKING INTERCONNECT ELEMENT HAVING METAL TRACES EMBEDDED IN SURFACE OF DIELECTRIC**

Dear Mr. Kotake, Mr. Iijima, Mr. Yoshino and Mr. Hyodo:

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

As named inventors 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.

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Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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TOSHIMA KU, TOKYO
JAPAN170-0005

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**FEB 15 2008**

In re Application of
Hideki Kotake et al.
Application No. 11/805,300
Filed: May 24, 2007
For: **STRUCTURE AND METHOD OF MAKING INTERCONNECT ELEMENT HAVING METAL TRACES EMBEDDED IN SURFACE OF DIELECTRIC**

Dear Mr. Kotake, Mr. Iijima, Mr. Yoshino and Mr. Hyodo:

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

As named inventors 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 Petitions Attorney at (571) 272-3212. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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JAPAN170-0005

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**FEB 15 2008**

In re Application of
Hideki Kotake et al.
Application No. 11/805,300
Filed: May 24, 2007
For: **STRUCTURE AND METHOD OF MAKING INTERCONNECT ELEMENT HAVING METAL TRACES EMBEDDED IN SURFACE OF DIELECTRIC**

Dear Mr. Kotake, Mr. Iijima, Mr. Yoshino and Mr. Hyodo:

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

As named inventors 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 Petitions Attorney at (571) 272-3212. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

In re Application of
David H. Sloo et al.
Application No. 11/805,306
Filed: May 23, 2007
Attorney Docket No: 319597.01

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed July 24, 2007 under 37 CFR 1.53, in response to the Notice of Omitted Items mailed June 20, 2007, requesting that Figure 4 be accepted as having been filed with the original application. The petition is being treated under 37 CFR 1.182.

On May 23, 2007 the application was filed.

On June 20, 2007, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items stating that while the application had been accorded a filing date of May 23, 2007, it appeared that Figure 4, as described in the specification, appeared to have been omitted from the application.

In response, petitioners argue that a complete application was present on May 23, 2007, and while petitioners request that the application be accorded a filing date of May 23, 2007, with Figure 4 as a part of the original disclosure.

The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this instance, the postcard receipt does not show an Office date stamp and is not properly itemized. The postcard identifies the number of drawing sheets not the number of Figures. Thus it cannot be determined whether the application as filed included 3 or 4 sheets of drawings and it cannot be determined if the application as filed included Figure 4. Furthermore, petitioner should note that there is no requirement

under 37 CFR 1.10 for a certificate of mailing by "Express Mail"[1] and that the application transmittal or cover sheet is, at best, only evidence of what was intended to be filed, not evidence of what was actually received or filed in the USPTO.

The petition is DISMISSED.

The copy of Figure 4 supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioner may file Figure 4 as a preliminary amendment. If Figure 4 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

As the evidence presented is not sufficient to prove that Figure 4 was filed with the application when filed, the evidence is insufficient to show that the error was committed by the USPTO and thus, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 23, 2007, using only the application papers filed on that date and not the copy of Figure 4 submitted with the petition.

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

[1] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

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NOVI, MI 48375

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Toru Nishi et al :
Application No. 11/805,342 :
Filed: May 23, 2007 :
Attorney Docket No. HGN-292-A

This is a decision on the petition, filed October 22, 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 24, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

This matter is being referred to Technology Center AU 3655 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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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tupinier et al. | : | DECISION REFUSING STATUS |
| Application No. 11/805,355 | : | UNDER 37 CFR 1.47(a) |
| Filed: May 23, 2007 | : | |
| Attorney Docket No. DP-314844 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed February 26, 2008 .

The petition is dismissed.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

Pursuant to petitioner's request, deposit account no. 50-0831 will be charged the $200.00 petition fee.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). Petitioner states that the application papers were mailed to inventor Marroux. Rule 47 applicant contends that inventor Marroux refused to accept the application papers from the mail courier. Rule 47 applicant states that the legal department received confirmation of the refusal. Petitioner has provided documents, which include a stamped envelope and what appears to be the equivalent of return receipt. However, the documentation is in French. Further review shows that a translation of the two pieces of evidence has not been provided. Petitioner should establish that the envelope was not rejected because inventor Marroux no longer resides at the address the application papers were mailed to.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

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.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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DEC 19 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Laurent Tupinier and Olivier R. Marroux | : | DECISION GRANTING STATUS |
| Application No. 11/805,355 | : | UNDER 37 CFR 1.47(a) |
| Filed: May 23, 2007 | : | |
| Attorney Docket No. DP-314844 | : | |

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

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor Marroux has refused to join in the filing of the above-identified application.

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

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

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Olivier R. Marroux
32 Rue Des Augustine
Biard, France 86580

In re Application of
Laurent Tupinier and Olivier R. Marroux
Application No. 11/805,355
Filed: May 23, 2007
Attorney Docket No. DP-314844
For: Contactless Switches

**COPY MAILED**

DEC 19 2008

**OFFICE OF PETITIONS**

Dear Mr. Marroux:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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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JUL 29 2009

OFFICE OF PETITIONS

**ROBERT A. KENT**
**P.O. BOX 1431**
**DUNCAN OK 73536**

In re Application of
Thomas D. Welton et al
Application No. 11/805,359
Filed: May 22, 2007
Attorney Docket No. 2006-IP-020572U1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed November 26, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3676 for appropriate action by the Examiner in the normal course of business on the reply received June 15, 2009.

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/805,360 | 05/23/2007 | Osamu Ueno | 14008.009 | 3436 |

46668 7590 09/09/2009
FILDES & OUTLAND, P.C.
20916 MACK AVENUE, SUITE 2
GROSSE POINTE WOODS, MI 48236

| EXAMINER |
|---|
| SONG, SARAH U |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2874 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/09/2009 | PAPER |

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

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

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

**FILDES & OUTLAND, P.C.**
**20916 MACK AVENUE, SUITE 2**
**GROSSE POINTE WOODS MI 48236**

| | |
|---|---|
| **In re Application of** | |
| **Osamu UENO, et al.** | **: DECISION ON REQUEST TO** |
| **Application No.: 11/805,360** | **: PARTICIPATE IN THE PATENT** |
| **Filed: 23 May 2007** | **: PROSECUTION HIGHWAY** |
| **Attorney Docket No.: 14008.009** | **: PROGRAM AND PETITION** |
| **For: OPTOELECTRIC COMPOSITE WIRING MODULE AND INFORMATION PROCESSING APPARATUS** | **: 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 17 June 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

## Discussion

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

1. The U.S. application is

    a. a Paris Convention application which either
        i. validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims,

    or

    b. a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
        i. validly claims priority to an application filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim,

    or

    c. a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
        i. validly claims priority to an application filed in the JPO, or

ii. validly claims priority to a PCT application that contains no priority claims, or
iii. contains no priority claim;

2. Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s);
   b. An English translation of the allowable/patentable claim(s) and
   c. A statement that the English translation is accurate;
3. Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
   b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

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 Brian Sircus at 571 272 2058.

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 will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Brian Sircus
TQAS, Technology Center 2800

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. |
|---|---|---|---|---|
| 11/805,379 | 05/22/2007 | Jae-Yong Lee | 678-3200 (P15207) | 3434 |

7590 12/03/2008
THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE, NY 11553

| EXAMINER |
|---|
| ANDERSON, MATTHEW D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2618 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/03/2008 | 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:
12/04/2008 NFARMER 0000165368

CHECK Refund Total: $500.00

Adjustment date: 12/04/2008 NFARMER
05/25/2007 MWOLDGE1 00000001 11805379
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Howard IP Law Group**
**P.O. Box 226**
**Fort Washington, PA 19034**

COPY MAILED

MAR 10 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frank J. DiSanto et al. | : | |
| Application No. 11/805,405 | : | DECISION ON PETITION |
| Filed: May 22, 2007 | : | TO WITHDRAW |
| Attorney Docket No. Copy-75-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 January 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 reason set forth in the request, "[f]iles were transferred to the below mentioned firm...," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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

There are no pending Office actions at this time.

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: Frank J. DiSanto
27 Par Court
North Hills, NY 11050

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP78
MAR 17 2008
PATENT & TRADEMARK OFFICE

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

**Howard IP Law Group**
**P.O. Box 226**
**Fort Washington, PA 19034**

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MAR 10 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frank J. DiSanto et al. | : | |
| Application No. 11/805,405 | : | DECISION ON PETITION |
| Filed: May 22, 2007 | : | TO WITHDRAW |
| Attorney Docket No. Copy-75-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 January 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 reason set forth in the request, "[f]iles were transferred to the below mentioned firm...," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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

There are no pending Office actions at this time.

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: Frank J. DiSanto
27 Par Court
North Hills, NY 11050

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. |
|---|---|---|---|---|
| 11/805,415 | 05/23/2007 | Isao Masuda | SONYJP 3.0-1378 | 2738 |

7590 09/10/2009
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

| EXAMINER |
|---|
| LE, TUAN H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/10/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
09/25/2007 WABDELR1 00000005 121095 11805415
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**PETER B. GOLDMAN**
**250 NORTH MEYER AVENUE**
**TUCSON AZ 85701**

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of

**EISENBERGER,** Peter et. al.
Application No. 11/805,477
Filed: May 22, 2007
Attorney Docket No. **6236 104US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 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 Peter Goldman, the sole attorney of record. Peter Goldman 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 first named inventor Peter Eisenberger at the address indicated below.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **PETER EISENBERGER**
**170 BROOKS BEND**
**PRINCETON NJ 08540**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
JUN 30 2010
OFFICE OF PETITIONS

SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY MN 55125

| | | |
|---|---|---|
| Applicant: Anupam A. BHARALI et al. | : | DECISION ON REQUEST FOR |
| Patent Number:Not Yet Available | : | RECALCULATION of PATENT |
| Issue Date: Not Yet Available | : | TERM ADJUSTMENT IN VIEW OF |
| Application No. 11/805,488 | : | WYETH |
| Filed: May 23, 2007 | : | |

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC §

154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell, NJ 08080

MAILED

NOV 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Santonsh Kumar Mukherjee | : | |
| Application No. 11/805,507 | : | DECISION ON PETITION |
| Filed: May 22, 2007 | : | TO WITHDRAW |
| Attorney Docket No. Santech_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 30, 2009 and resubmitted on November 12, 2009.

The request is **APPROVED**.

The request was signed by Ashok Tankha on behalf of all the practitioners of record.

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

All future correspondence will be directed to inventor Santosh Kumar Mukherjee at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Santosh Kumar Mukherjee
Santech International Inc.
271 Correja Ave.
Iselin, NJ 08830

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 |
|---|---|---|---|
| 11/805,507 | 05/22/2007 | Santosh Kumar Mukherjee | Santech_01 |

**CONFIRMATION NO. 3258**

**POWER OF ATTORNEY NOTICE**

Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell, NJ 08080

*OC000000038660096*

Date Mailed: 11/18/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2009.

- 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.

/idingle/

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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 |
|---|---|---|---|
| 11/805,507 | 05/22/2007 | Santosh Kumar Mukherjee | Santech_01 |

**CONFIRMATION NO. 3258**

**POA ACCEPTANCE LETTER**

Santosh Kumar Mukherjee
Santech International Inc.
271 Correja Ave.
Iselin, NJ 08830

*OC000000038660169*

Date Mailed: 11/18/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2009.

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

/idingle/

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

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

COPY MAILED

MAR 06 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| Applicant: Modzelewski | : | |
| Application No. 11/805,535 | : | |
| Filed: June 11, 2007 | : Decision On | |
| For: System and Method for Automating the | : Petition | |
| Creation of a Two-Way Dialogue With a TV | : | |
| Viewer | : | |

This is a decision in response to the petition entitled "Petition to Withdraw Rescission of Nonpublication Request Under 35 USC 122(b)(2)(B)(iii)" received on January 23, 2008, for the above identified application.

The petition under 37 CFR 1.182 is dismissed.

Petitioner requests that the previously filed rescission of nonpublication request be withdrawn. Petitioner states that Applicant communicated a desire to file a Patent Cooperation Treaty Application, which caused Applicant's representative to request rescission of the previously filed nonpublication request. Subsequently Applicant indicated that they did not understand that the PCT application would required the rescission of the previously filed nonpublication request. Applicant decided to forgo the filing of the CT application and respectfully request the Director to reinstate the nonpublication request. Applicant's representative submitted certification for nonpublication.

On June 11, 2007, Applicants filed the above-identified non-provisional application with a non-publication request.

On July 19, 2007, a Filing Receipt was mailed by the Office, which acknowledged the request for non-publication.

On January 15, 2008, a rescission of the previously filed nonpublication request was filed by Applicants representative.

On January 23, 2008, the above identified petition was received in the Office.

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 the applicant may rescind the nonpublication request at any time. See 35 U.S.C. 122(b)(2)(B)(ii).

37 CFR 1.213(a)(4) requires that a nonpublication request be signed in compliance with 37 CFR 1.33(b).

37 CFR 1.34 requires that a practitioner acting in a representative capacity must set forth his or her registration number, his or her name and signature.

Petitioner's request to withdraw the rescission request is not persuasive. Since applicant rescinded the nonpublication request, the application is treated as if the nonpublication request were never made. [1] Applicant can not make a new nonpublication request as he appears to attempt in the petition, as a nonpublication request must be filed concurrently with the application and can not be submitted at a later date.

The nonpublication request submitted on filing the application is defective as it was not signed in compliance with 37 CFR 1.33(b), as the practitioner acting in a representative capacity did not include his printed name.

The application will be scheduled for publication.

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 petition fee $400 has been paid.

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

[1] 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 OG 22 (July 1, 2003)

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

**HOWARD IP LAW GROUP**
**P.O. BOX 226**
**FORT WASHINGTON, PA 19034**

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MAR 0 5 2009

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Kaupert et al. | : |
| Application No. 11/805,551 | : DECISION ON PETITION |
| Filed: May 23, 2007 | : UNDER 37 CFR 1.55(c) |
| Attorney Docket No. PPRPB-38 | : |

This is a decision on the petition under 37 CFR 1.55(c), filed September 25, 2008, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) – (d) and (f) for the filing date of the following foreign application: German Application No. DE 10 2006 024 574.1, filed May 23, 2006.

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

**(1)** the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

**(2)** the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

**(3)** the surcharge set forth in § 1.17(t);

**(4)** a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) 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); and

**(5)** the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition does not comply with item (2) above.

Petitioner has not complied with (2) above as the claim for priority under 37 CFR 1.55(c) must be provided in an Application Data Sheet (ADS) or in an oath/declaration. Neither were submitted with the instant petition.

Accordingly, before the petition under 37 CFR 1.55(c) can be granted, either an ADS or an oath/declaration, along with a renewed petition under 37 CFR 1.55(c), is required.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 22 2009

OFFICE OF PETITIONS

| | |
|---|---|
| Application of | : |
| Kaupert et al. | : |
| Application No. 11/805,551 | : DECISION GRANTING PETITION |
| Filed: May 23, 2007 | : UNDER 37 CFR 1.55(c) |
| Attorney Docket No. PPRPB-38 | : |

This is a decision on the renewed petition under 37 CFR 1.55(c), filed March 23, 2009, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Application No. DE102006024 574.1, filed May 23, 2006.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on May 23, 2007, which is after November 29, 2000 and within 12 months of (the filing date of the foreign application to which benefit is now being claimed). On March 23, 2009, an Application Data Sheet (ADS) was

received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the previous petition on September 25, 2008. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A corrected filing receipt accompanies this decision on petition.

This matter is being referred to Technology Center AU 1795 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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 |
|---|---|---|---|---|---|---|
| 11/805,551 | 05/23/2007 | 1795 | 1130 | PPRPB-38 | 16 | 2 |

**CONFIRMATION NO. 2707**

**CORRECTED FILING RECEIPT**

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

*OC000000036099934*

Date Mailed: 05/21/2009

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)**

Andreas Kaupert, Esslingen, GERMANY;
Guenter Eberspach, Wolfschlugen, GERMANY;

**Power of Attorney:** The patent practitioners associated with Customer Number 45722

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
GERMANY 10 2006 024 574.1 05/23/2006

**If Required, Foreign Filing License Granted:** 06/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/805,551**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Burner and fuel cell system equipped therewith

**Preliminary Class**

429

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

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

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

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

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

CHERSKOV & FLAYNIK
THE CIVIC OPERA BUILDING
20 NORTH WACKER DRIVE, SUITE 1447
CHICAGO, IL 60606

In re Application of :
Ira M. Kozak :
Application No. 11/805,565 : ON PETITION
Filed: NO FILING DATE ACCORDED :
Attorney Docket No.: 0052/01133CIP2 :

This is a decision on petition under 37 CFR 1.57, filed February 7, 2008, requesting that the above-identified application be accorded a filing date of May 23, 2007.

The petition is **dismissed**.

The above-cited application was deposited on May 23, 2007. On December 4, 2007, the Office of Patent Application Processing mailed a Notice of Incomplete Non-Provisional Application stating that the application had not been accorded a filing date because a specification was not found with the application papers. The notice allowed a non-extendable period for reply of two-months from its mailing date.

The instant petition was filed in response to the Notice of Incomplete Non-Provisional Application and was accompanied by a copy of the specification from prior-filed non-provisional application serial number 11/085,437. The petition states that a preliminary amendment making a priority claim under 37 CFR 1.78 to non-provisional application 11/085,437 accompanied the application papers deposited May 23, 2007. A review of the application file did not reveal a proper priority claim under 37 CFR 1.78 to application serial number 11/085,437[1]. It is noted that petitioner does not provide *prima facie* evidence, i.e., an itemized Office date-stamped postcard or certificate of mailing under 37 CFR 1.8, that said preliminary amendment accompanied the application papers filed May 23, 2007.

37 CFR 1.57 states, in pertinent part, that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior- filed application as to the inadvertently omitted portion of the specification or drawing(s).

[1] It is noted that the Application Transmittal Sheet filed May 23, 2007, contained a representation that the subject application is a continuation of application serial number 11/085,437 and such is noted in USPTO records. Notwithstanding, the subject application did not contain a proper benefit claim under 37 CFR 1.78 which would be found on the first page of the specification or in an Application Data Sheet.

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

(i) Supply a copy of the prior-filed application, except where the prior- filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

...

(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).

The petition fails to comply with 37 CFR 1.57(a) that requires that 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-provisional, non-provisional, or international application be present on the filing date of the application. A proper benefit claim under 37 CFR 1.78 was not present on May 23, 2007. Petitioner cannot, therefore, rely on 37 CFR 1.57(a) to meet the filing date requirements of 37 CFR 1.53.

The petition also fails to comply with 37 CFR 1.57(a) because petitioner has not provided an amendment to include the omitted specification as required 37 CFR 1.57(a). Any renewed petition filed must be accompanied by evidence that a proper priority claim under 37 CFR 1.78 or 37 CFR 1.55 was present in the application on May 23, 2007, and an amendment requesting entry of the inadvertently omitted specification.

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

Anthony Knight
Supervisor
Office of Petitions

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CHICAGO, IL 60606

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AUG 1 8 2008

**OFFICE OF PETITIONS**

In re Application of :
Ira M. Kozak :
Application No. 11/805,565 : ON PETITION
Filed: NO FILING DATE ACCORDED :
Attorney Docket No.: 0052/01133CIP2 :

This is a decision on the renewed petition under 37 CFR 1.57, filed July 17, 2008, requesting that the above-identified application be accorded a filing date of May 23, 2007.

The renewed petition is **dismissed**.

The above-cited application was deposited on May 23, 2007. On December 4, 2007, the Office of Patent Application Processing mailed a Notice of Incomplete Non-Provisional Application stating that the application had not been accorded a filing date because a specification was not found with the application papers. The notice allowed a non-extendable period for reply of two-months from its mailing date.

A petition under 37 CFR 1.57 was first filed on February 7, 2008, in response to the Notice of Incomplete Non-Provisional Application and was accompanied by a copy of the specification from prior-filed non-provisional application serial number 11/085,437. The petition stated that a preliminary amendment making a priority claim under 37 CFR 1.78 to non-provisional application 11/085,437 accompanied the application papers deposited May 23, 2007. The petition under 37 CFR 1.57 was dismissed by a decision mailed May 12, 2008, because a proper priority claim under 37 CFR 1.78 to application serial number 11/085,437 was not found with the original application. The instant renewed petition was filed on July 17, 2008. Petitioner maintains that the application should be accorded a filing date of May 23, 2007, because a preliminary amendment containing a priority claim to non-provisional application 11/085,437 accompanied the original application papers and non-provisional application 11/085,437 contained the omitted specification required by the Notice of Incomplete Non-Provisional Application.

Subsequent review of the application file revealed a preliminary amendment filed May 23, 2007, with a priority claim to non-provisional applications 11/085,437 and 10/365,334 contained in the abstract for the application. Pursuant to 37 CFR 1.78(2)(iii), a proper priority claim in application filed after November 29, 2000, is made in the specification, in first sentence following the title, or in an Application Data Sheet. Notwithstanding, the Office identified the priority claim in the abstract document and entered the priority information into the record.

The renewed petition must be dismissed, however, because the amendment filed July 17, 2008, includes an improper incorporation by reference statement. 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)). It is noted that the priority claim filed May 23, 2007, did not contain a statement incorporating by reference either non-provisional application 11/085,437 or 10/365,334,

therefore, the inclusion of such a statement in the amendment filed July 17, 2008 is not proper. The second renewed petition should include an amendment that corrects this matter and requests entry of only the inadvertently omitted material which may be found in non-provisional application 11/085,437.

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

Anthony Knight
Supervisor
Office of Petitions

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SUITE 5G/H
CHICAGO IL 60607

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SEP 29 2008

**OFFICE OF PETITIONS**

In re Application of :
Ira M. Kozak :
Application No. 11/805,565 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No.: 0052/01133CIP2 :

This is a decision on the renewed petition under 37 CFR 1.57 filed September 5, 2008.

The renewed petition is **granted.**

A petition under 37 CFR 1.57 was first filed on February 7, 2008, in response to the Notice of Incomplete Non-Provisional Application and was accompanied by a copy of the specification from prior-filed non-provisional application serial number 11/085,437. The petition stated that a preliminary amendment making a priority claim under 37 CFR 1.78 to non-provisional application 11/085,437 accompanied the application papers deposited May 23, 2007. The petition under 37 CFR 1.57 was dismissed by a decision mailed May 12, 2008, because a proper priority claim under 37 CFR 1.78 to application serial number 11/085,437 was not found with the original application. A renewed petition was filed on July 17, 2008. Petitioner maintained that the application should be accorded a filing date of May 23, 2007, because a preliminary amendment containing a priority claim to non-provisional application 11/085,437 accompanied the original application papers and non-provisional application 11/085,437 contained the omitted specification required by the Notice of Incomplete Non-Provisional Application.

Subsequent review of the application file revealed a preliminary amendment filed May 23, 2007, with a priority claim to non-provisional applications 11/085,437 and 10/365,334 contained in the abstract for the application. Pursuant to 37 CFR 1.78(2)(iii), a proper priority claim in application filed after November 29, 2000, is made in the specification, in first sentence following the title, or in an Application Data Sheet. Notwithstanding, the Office identified the priority claim in the abstract document and entered the priority information into the record. The renewed petition was dismissed on August 18, 2008, because the amendment filed July 17, 2008, included an improper incorporation by reference statement.

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the drawings can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined not to be entitled to a filing date. Accordingly, a petition is required to amend the application pursuant to 37 CFR 1.57. The petition is granted, accordingly.

The application will be accorded a filing date of May 23, 2007.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of May 23, 2007. The Office of Patent Application Processing will issue a corrected filing receipt.

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

Anthony Knight
Supervisor
Office of Petitions

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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JUL 16 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Olson et al. | : | |
| Application No. 11/805598 | : | DECISION GRANTING PETITION |
| Filed: 05/23/2007 | : | |
| Atty Dckt No. FCI-3070 (C3393C) | : | |

This is a decision in reference to the petition filed on 25 June, 2007, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 23 May, 2007, rather than the currently-accorded filing date of 25 May, 2007.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail Service on 23 May, 2007. In support, petitioner has provided a copy of the Express Mail Customer Label EV864898398US (the same Express Mail number found on the itemized design application transmittal sheet accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label is "5/25/07", the Express Mail Customer Label also contains an Official USPS postmark dated May 23, 2007. Furthermore, petitioners have provided a copy of the U.S. Postal Service Track & Confirm database reveals that the shipment associated with the above-identified Express Mail Label Number was accepted by the USPS on 23 May, 2007.

As such, the showing of record is that the correct date of deposit in Express Mail is 23 May, 2007.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **23 May, 2007,** and for issuance of a corrected Filing Receipt.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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222 EAST 41ST ST
NEW YORK NY 10017

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JUL 13 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Xiong, et al. | : | |
| Application No. 11/805,604 | : | ON PETITION |
| Filed: May 24, 2007 | : | |
| Attorney Docket No. 12108-002-999 | : | |

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.10(c)", filed June 8, 2007, to accord the above application a filing date of May 24, 2007.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on May 24, 2007, not May 25, 2007. In support thereof, petitioner has included a copy of the Express Mail mailing label. The Express Mail mailing label contains a USPS stamp dated May 24, 2007.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that the "date-in" on the Express Mail mailing label was incorrectly entered by the USPS, may petition the Office to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited, provided:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s)or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

In view of the corroborating evidence from the USPS (the May 24, 2007 stamp on the Express Mail mailing label), the application will be accorded a filing date as of the date the application is shown to have been deposited, or May 24, 2007.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **May 24, 2007, not May 25, 2007.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**JONES DAY**
**222 EAST 41ST ST**
**NEW YORK NY 10017**

MAILED

FEB 0 2 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Xiong et al. | : | |
| Application No. 11/805,604 | : | DECISION GRANTING PETITION |
| Filed: May 24, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 12108-002-999 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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 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 prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 2473 for appropriate action on the amendment filed November 25, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/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 |
|---|---|---|---|---|---|---|
| 11/805,604 | 05/24/2007 | 2473 | 1840 | 12108-002-999 | 59 | 6 |

**CONFIRMATION NO. 3483**

**CORRECTED FILING RECEIPT**

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

*OC000000039973601*

Date Mailed: 02/02/2010

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)**

Bo Xiong, Sunnyvale, CA;
Dean Chang, Sunnyvale, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number 20583

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/805,471 05/22/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/805,604**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

**Title**

Systems and methods for dynamic quality of service

**Preliminary Class**

370

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 16 2009

**OFFICE OF PETITIONS**

Courtney Staniford & Gregory LLP
10001 N. De Anza Blvd., Suite 300
Cupertino, CA 95014

| | | |
|---|---|---|
| In re Application of | : | |
| Raman K. Rao | : | |
| Application No. 11/805,610 | : | DECISION ON PETITION |
| Filed: May 23,2007 | : | TO WITHDRAW |
| Attorney Docket No. IPHD.P042 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed 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 Richard L. Gregory, Jr. on behalf of all attorneys/agents of record who are associated with customer No. 53186.

Richard L. Gregory and all the attorneys/agents associated with the Customer Number 53186 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence of record is acceptable as the requested correspondence address is that of the sole inventor. Therefore, all future communications from the Office will be directed to the sole inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 11, 2009 that requires a reply from the applicant.

This application is being referred to Technology Center Art Unit 2612 to await applicants' response to the Office action.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: IP Holdings, Inc.
3099 Alexis Drive
Palo Alto, CA 94304

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

**HICKMAN PALERMO TRUONG & BECKER, LLP**
**2055 GATEWAY PLACE**
**SUITE 550**
**SAN JOSE CA 95110**

COPY MAILED

MAR 07 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Madnani, Rajkumar R. | : | |
| Application No. 11/805,636 | : | DECISION GRANTING PETITION |
| Filed: March 23, 2007 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 60159-0011 | : | |

This is a decision on the petition, filed January 30, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 13, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 3, 2008, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2142 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 |
|---|---|---|---|
| 11/805,636 | 05/23/2007 | Rajkumar R. Madnani | 60159-0011 |

**CONFIRMATION NO. 3743**

29989
HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

**NONPUBLICATION RESCISSION LETTER**

*OC000000028623286*

Date Mailed: 03/04/2008

## 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 07/03/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald J. Harrington
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield MI 48075-1238

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Newby and Keller :
Application No. 11/805,669 : DECISION REFUSING STATUS
Filed: May 24, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 05-ASD-458(EH) :
For: ENGINE VALVE WITH A COMBINED ENGINE OIL FILTER AND VALVE ACTUATOR SOLENOID

This is a decision on the petition under 37 CFR 1.47(a), filed September 24, 2008.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on May 24, 2007, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on August 11, 2008, requiring an executed oath or declaration. The instant petition was filed on September 24, 2008, maintaining that inventor Newby cannot be located.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (1) set forth above.

As to item (1), petitioner did not provide sufficient proof that inventor Newby cannot be located. Petitioner concludes that inventor Newby cannot be located, but does not explain the efforts undertaken to locate inventor Newby. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides guidance as to what will suffice as sufficient proof that the non-signing inventor cannot be reached as is alleged in the instant petition. This section states, in pertinent part, as follows:

> [w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts.

The renewed petition must be accompanied documentary evidence that corroborates petitioner's conclusion that the inventor Newby cannot be located despite diligent efforts.

Deposit account 02-3978 will be charged $200.00 for the petition fee.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald J. Harrington
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield MI 48075-1238

COPY MAILED

MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of
Newby and Keller
Application No. 11/805,669
Filed: May 24, 2007
Attorney Docket No. 05-ASD-458(EH)
For: ENGINE VALVE WITH A COMBINED ENGINE OIL FILTER AND VALVE ACTUATOR SOLENOID

DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 17, 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-identified application was filed on May 24, 2007, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on August 11, 2008, requiring an executed oath or declaration. A petition under 37 CFR 1.47(a) was filed on September 24, 2008, maintaining that inventor Newby cannot be located. The petition was dismissed by a decision mailed October 14, 2008.

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

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

This application will be forwarded to the Office of 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

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

EDWARD D. GILHOOLY
28 E. JACKSON BLVD.
SUITE 423
CHICAGO, IL 60604

MAILED

NOV 13 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mary Jane Rosario | : | |
| Application No. 11/805,709 | : | DECISION ON PETITION |
| Filed: May 25, 2007 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition, filed July 13, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 2, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 2, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on July 2, 2008, which included the following papers: amendment, three replacement sheets of drawings, petition for extension of time and a check in the amount of $525.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 2, 2008 is hereby **withdrawn** and the **application restored to pending status**.

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

This application is being referred to Technology Center AU 3765 for appropriate action in the normal course of business on the reply received with petition.

/dab/
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

November 5, 2009

Leslie Fischer
Novartis Pharmaceuticals Corporation
One Health Plaza, Bldg. 101
East Hanover, NJ 07936

Patent No: 7,569,539 B2
Application No.: 11/805,748
Applicant: Moise Azria, et al.
Issued: August 4, 2009
Title: **ORAL ADMINISTRATION OF CALCITONIN**

Request for Certificate 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 Rules 1.322/1.323.

The alleged errors complained of in your request, are changes made in an Examiner's Amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the issue fee, the requested changes will not be included in a certificate.

In view of the foregoing, your request in these matters is hereby **denied.**

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

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

*/Virginia Tolbert/*
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
David W. Palmer

Application No. 11805776

Filed: May 24,2007

Attorney Docket No. 3116/102

: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 16-JUN-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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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JUL 01 2009

OFFICE OF PETITIONS

W. ALLEN MARCONTELL
P.O. BOX 800149
HOUSTON TX 77280-0149

In re Application of :
Donald G. Chamberlain et al. :
Application No. 11/805,798 : ON PETITION
Filed May 24, 2007 :
Attorney Docket No. GEO-X 007.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay in a timely manner the issue and publication fees on or before March 23, 2009 as required in the Notice of Allowance and Fee(s) Due mailed December 23, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 24, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Accordingly, the reply to Notice of Allowance and Fee(s) Due December 23, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Office of Data Management for appropriate action.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**JOHN SPLAWN PAGE, JR.**
**25092 FARTHING STREET #122**
**LAKE FOREST CA 92630-4034**

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AUG 07 2007

**OFFICE OF PETITIONS**

In re Application of

**PAGE**, John S. Jr.
Application No. 11/805,800
Filed: May 23, 2007
Attorney Docket No.

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 9, 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, birth certificate and driver's license of inventor John S. Page Jr., 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 Office of Initial Patent Examination.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20090706

**DATE** : July 6, 2009

**TO SPE OF** : ART UNIT 3611

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7513321
App 11/805800

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - PK 3-910**
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

Lesley D Morris SPE 3611

**SPE:** Lesley D. Morris **Art Unit** 3611

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

2/18/09

Patent No. :7361791
Inventor(s) :Wugeng Liang et al.
Issued : 4/22/2008
Title : MIXED METAL OXIDE CATALYSTS FOR THE PRODUCTION OF UNSATURATED ALDEHYDES FROM OLEFINS
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 accoradance 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
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

SABIC AMERICAS, INC.
SABIC TECHNOLOGY CENTER
1600 INDUSTRIAL BLVD.
SUGAR LAND, TEXAS 77478

HR/MD

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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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, N.Y. 11576

COPY MAILED
DEC 09 2008

Applicant: SUTER ET AL.
Appl. No.: 11/805,822
Filing Date: May 24, 2007
Title: METHOD FOR PROUCING A COMPOSITE PART BY INJECTION MOULDING, INJECTION OR COMPRESSION MOULDING OR BACK COMPRESSION MOULDING OF A PLASTIC MATERIAL
Attorney Docket No.: Suter et al-1(DIV)
Pub. No.: 2007/02787 A1
Pub. Date: December 6, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 22, 2008, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

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

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

MAILED

APR 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| McGary et al. | : | |
| Application No. 11/805,839 | : | DECISION ON PETITION |
| Filed: 05/24/2007 | : | |
| Attorney Docket No. 886-207US | : | |

This is a decision on the petition under 37 CFR.1.181, filed October 15, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application, mailed on June 26, 2007, which set a two-month extendable period for reply. In the absence of a timely reply, the Office held the application abandoned and mailed a Notice of Abandonment on August 15, 2008.

Petitioner stated that he timely mailed a reply on August 20, 2007. Petitioner submitted a copy of the previously mailed reply, accompanied by a signed certificate of mailing, indicating that the correspondence was being deposited in the U.S. Postal Service as first class mail on August 20, 2007.

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

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice to File Missing Parts of Nonprovisional Application is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on August 20, 2007.

This application is being referred to Office of Initial Patent Examination for further processing.

Telephone inquires specific 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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August 6, 2009 CST

| | |
|---|---|
| In re application of<br>Takatsugu Doi et al<br>Serial No. 11/805,882<br>Filed: May 24, 2007<br>For: INK RECEPTIVE PARTICLES, MATERIAL FOR RECORDING, RECORDING APPARATUS AND INK RECEPTIVE PARTICLE STORAGE CARTRIDGE | DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed June 18, 2009.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Serial # 11/805895
Filed 5-25-07

01576 U.S. PTO
052507

APPLICATION TO MAKE SPECIAL

SUIT COAT VENTILATION MECHANISM
Docket No. MLB200R

I do request an expedited examination of the referenced Utility patent application by virtue of being over 65 years old.

My Birthday is October 18, 1934 and I am now 72 years old.

Extensive searching of the USPTO patents from 1977 and applications results in hand held fans or chest or table supported.

Search by Google has revealed only a special vest containing 2 built in fans, compressed air or refrigerated Gel Paks.
These are of no use when wearing non-specialized clothing.

Enclosed please find my search results.

Thank You,

Morris L. Barwick
5113 FM 2101
Greenville, TX 75402
903-883-2542
morrisbarwick@yahoo.com

M L Barwick May 25, 2007

PETITION GRANTED

William Krynski
Quality Assurance Specialist
Technology Center 1700
JUL 16 2007

PAGE 1/1 * RCVD AT 6/29/2007 6:05:02 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/7 * DNIS:2731012 * CSID:301 638 5014 * DURATION (mm-ss):00-58

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**PARK, VAUGHAN & FLEMING LLP**
**2820 FIFTH STREET**
**DAVIS CA 95618-7759**

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SEP 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Campos et al. | : | |
| Application No. 11/805,902 | : | DECISION ON PETITION |
| Filed: May 24, 2007 | : | |
| Attorney Docket No. UC06-283-4 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 18, 2009. A Notice of Abandonment was mailed June 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2825 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BAKER BOTTS L.L.P.**
**30 ROCKEFELLER PLAZA**
**44TH FLOOR**
**NEW YORK NY 10112-4498**

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FEB 08 2008

**OFFICE OF PETITIONS**

In re application of:
Andrew Honig et al
Application No. 11/805,946
Filed: May 25, 2007
Attorney Docket No. 070050.3334

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 no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

# Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No. 11805946

*11805946*

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

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Deciding Official: CREASY, KAREN

FEB 08 2008

OFFICE OF PETITIONS

***Count (1) - Palm Credit*** 11/805,946

Decision Type: 321 - 37 CFR 1.28 TO MAKE ENTITY STATUS LARGE FROM SMALL

Decision: GRANT

Time Period for Reply: n/a

Notes:

***Count (2)***

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

***Count (3)***

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

_____ Initials of Approving Official (if required)

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

*Printed on:* *2/6/08*

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KOPPEL PATRICK & HEYBL
555 ST. CHARLES DRIVE, SUITE 107
THOUSAND OAKS, CA 91360

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MAR 3 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andy Onacko et al | : | |
| Application No. 11/805,953 | : | DECISION DISMISSING |
| Filed: March 25, 2007 | : | PETITION |
| Attorney Docket No. 830-2F-015 | : | |

This is a decision on the petition filed July 2, 2007, requesting that the above-identified application be accorded a filing date of May 25, 2007.

A review of the file record shows that USPTO records have been updated to reflect the correct filing date pursuant to 37 CFR 1.10. A Replacement Filing Receipt is enclosed.

The evidence submitted is sufficient to grant the petition; however, in view of the above, the petition is **DISMISSED AS MOOT.**

This application file is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries relating to this decision should be directed Irvin Dingle at (571) 272-3210. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

David Bucci
Petition Examiner
Office of Petitions

Attachment: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/805,953 | 05/25/2007 | 2154 | 765 | 830-2F-015 | 28 | 2 |

**CONFIRMATION NO. 4246**

**REPLACEMENT FILING RECEIPT**

23935
KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

*OC000000028683512*

Date Mailed: 03/06/2008

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)**

Andy Onacko, St. Albans, UNITED KINGDOM;
Dave Charles, Wilstead, UNITED KINGDOM;

**Assignment For Published Patent Application**

ABILISOFT LIMITED, WHITCHURCH, UNITED KINGDOM

**Power of Attorney:** The patent practitioners associated with Customer Number 23935

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
UNITED KINGDOM 0610532.4 05/26/2006

**If Required, Foreign Filing License Granted:** 06/25/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/805,953**

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

**Non-Publication Request:** No

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

**Title**

Real-time monitoring of operations support, business service management and network operations management systems

**Preliminary Class**

709

## 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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**Delphine James**
**Suite 170**
**2656 South Loop West**
**Houston TX 77054**

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MAR 03 2008

| | | |
|---|---|---|
| In re Application of | : | |
| John Larry Perkins | : | |
| Application No. 11/805,973 | : | DECISION ON PETITION |
| Filed: May 26, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. DMJ0070228 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 22, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's drivers 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 1797 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions 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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**LITMAN LAW OFFICES, LTD.**
**P.O. BOX 15035**
**CRYSTAL CITY STATION**
**ARLINGTON VA 22215**

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AUG 16 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Francis C. Clancey | : | |
| Application No. 11/806,063 | : | DECISION ON PETITION |
| Filed: May 29, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 20210.03 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 29, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3623 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO, MD 20772

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JUL 1 0 2008

**OFFICE OF PETITIONS**

In re Application of Shlick et al. :
Application No. 11/806,111 :
Filing Date: May 30, 2007 :
Attorney Docket No. 246/685 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed April 8, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice to File Corrected Application Papers on June 26, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply to the June 26, 2007 Notice was not matched with the file. As a result, a Notice of Abandonment was mailed March 10, 2008.

Petitioner contends a reply to the June 26, 2007 Notice was timely filed on August 21, 2007.

The file wrapper does not include any papers received by the Office on August 21, 2007. However, Petitioner has supplied a stamped receipt from the Office indicating the Office received "Correction of Application Papers" on August 21, 2007.

The evidence supplied by petitioner is sufficient to prove a reply was timely filed on August 21, 2007.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Patent Application Processing will be informed of the instant decision and the application will be prepared for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OCT 28 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

| | | |
|---|---|---|
| In re Application of<br>KAZAWA, TOHRU, et al.<br>Application No. 11/806,130<br>Filed: May 30, 2007<br>Attorney Docket No. **062807-0436** | :<br>:<br>:<br>:<br>:<br>:<br>: | 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 August 20, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Hirofumi Atarashi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615948 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/806,131 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/806,141 | 05/30/2007 | Jeong-Il Kang | 53108 | 5749 |

7590 03/11/2009
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

| EXAMINER |
|---|
| HJERPE, RICHARD A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/11/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 03/12/2009 BPOWELL
05/31/2007 MAHMED1 00000055 11806141
02 FC:1111 -500.00 OP

Repln. Ref: 03/12/2009 BPOWELL 0017211800
DA#:182220 Name/Number:11802653
FC: 9204 $550.00 CR



FORM PET651G (Rev. 08/07)

Repln. Ref: 03/12/2009 BPOWELL 0017231000
DAH:182220 Name/Number:11806141
FC: 9204 $500.00 CR

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

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JUL 24 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **ORLOSKY**, James R. | : | |
| Application No. 11/806,150 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **12194-46102** | : | FROM RECORD |

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 Gerard A. Messina on behalf of all attorneys of record who are associated with customer No. 23838. 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 James Robert Orlosky at the address indicated below.

There is an outstanding Office action mailed April 01, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JAMES ROBERT ORLOSKY**
**18452 WISECARVER TRUCK TRAIL**
**JAMUL, CA 91935**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/27/09

TO SPE OF : ART UNIT 3741

SUBJECT : Request for Certificate of Correction for Appl. No.: 11806150 Patent No.: 7,513,222

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

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

**Thank You For Your Assistance**

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

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

**Comments:** Correction fixes an amendment entering error.

/Michael Cuff/ 3741
**SPE** **Art Unit**

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Paper No.

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WASHINGTON DC 20004

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AUG 12 2008

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|---|---|
| In re Application of | : |
| Alastair MacGibbon, Norm Thomson | : |
| David Johnson and Garth Cooper | : DECISION ACCORDING STATUS |
| Application No. 11/806,158 | : UNDER 37 C.F.R. § 1.47(a) |
| Filed: May 30, 2007 | : |
| Atty Docket No. 0290143.TBD | : |

This is a decision on the PETITION PURSUANT TO 37 C.F.R. § 1.47(a) filed January 28, 2008. This decision is made in light of the SUPPLEMENT TO PETITION UNDER 37 C.F.R. § 1.47(a) filed April 17, 2008.

The petition is **GRANTED**.

The above-identified application was filed on May 30, 2007, without an executed oath or declaration. Accordingly, on June 27, 2007, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing. (In addition, the Notice required replacement drawings). This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition, made timely by an accompanying petition and fee for extension of time within the fifth month. The petition included two declarations executed, in combination, by joint inventors MacGibbon and Johnson on behalf of themselves and on behalf of non-signing inventors Thomson and Cooper. Prior to a decision being rendered on the petition, on April 17, 2008, applicants submitted a declaration executed by formerly non-signing

inventor Thomson on behalf of himself and on behalf of non-signing joint inventor Cooper.

Applicants now assert that status under 1.47(a) is proper because joint inventor Cooper has not been reached after diligent effort to join in the application. The petition includes a statement of facts of patent attorney Henry Wixon, to show that on multiple occasions the application papers including the declaration for signature were presented to inventor Cooper's attorney, Suzanne Biggs. The evidence includes copies of the letters transmitting the papers and of the signed FedEx receipt, evidencing proof of delivery by courier.

Having considered the evidence, it is concluded that applicants have submitted adequate proof that by his conduct in not responding to the request to sign the declaration, inventor Cooper has refused to join in the application after a bona fide attempt was made to present the papers to the inventor via his attorney.

The declarations filed January 28, 2008 and April 17, 2008, have been reviewed and found in compliance with § 1.47. The petition includes the petition fee and the last known address of inventor Cooper.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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GARTH J.S. COOPER
2 Crummer Road
Auckland
New Zealand

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AUG 12 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Alastair MacGibbon, Norm Thomson | : | |
| David Johnson and Garth Cooper | : | LETTER |
| Application No. 11/806,158 | : | |
| Filed: May 30, 2007 | : | |
| Atty Docket No. 0290143.TBD | : | |

Dear Mr. Cooper:

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

WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON DC 20004

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JUN 03 2008

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

| | | |
|---|---|---|
| In re Application of | : | |
| Watanabe, et al. | : | |
| Application No. 11/806,206 | : | DECISION |
| Filed/Deposited: 30May, 2007 | : | |
| Attorney Docket No. 06267.0103-01000 | : | |

This is a decision on the "Petition Under 37 C.F.R. §1.57(a) for Addition of Inadvertently Omitted Drawings ..." filed on 19 July, 2007, requesting that the instant application be accorded a filing date of 30 May, 2007, under 37 C.F.R. §1.57(a), based on the inadvertently omitted drawings being present in the prior-filed co-pending nonprovisional application to which this application claimed benefit under 37 C.F.R. §1.78 on filing. In light of the record this petition is being treated pursuant to 37 C.F.R. 1.53(e)(2)[1].

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

For the reasons stated herein, the petition as considered under the provisions of 3 7 C.F.R. §1.53(c)(2) is **GRANTED in part** and **DISMISSED in part**.

Application papers in the above-identified application were deposited on 30 May, 2007.

[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.

On 11 July, 2007, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 U.S.C. §113 (first sentence). The Office informed the Applicant that he/she might contend upon petition that the omitted items were received by the Office and so evidence (i.e., a copy of a date-stamped receipt card or Electronic Acknowledgment Receipt) and provide a copy of the omitted items; or submit the omitted missing items and accept the day of submission as the filing date.

On 19 July, 2007, Petitioner filed, *inter alia*, the instant petition with fee, (however, Petitioner filed no amendment and no copies of the drawings from the nonprovisional Application No. 10/398,373 (filed on 4 April, 2003) averred to contain the 7 sheets of drawings/figures averred to have been inadvertently omitted), and avers inadvertent omission of drawings figures and Petitioner points to the prior-filed and then-copending nonprovisional Application No. 10/398,373 (filed on 4 April, 2003), the claim for priority thereto made in the specification of the instant application and avers incorporation by reference therein.

Procedures and showings required for correction of a failure to include specifications and/or drawings from an application are set forth at 37 C.F.R. §1.57.[2] The instant application was filed after 21 September, 2004, and thus, the provisions of 37 C.F.R. 1.57(a) are applicable.

Petitioner asserts that the application as deposited for filing on 30 May, 2007,included a claim for priority to the prior-filed nonprovisional Application No. 10/398,373 (filed on 4 April, 2003), and that the drawings were inadvertently omitted from the instant application on deposit. A review of the application confirms that on filing it included a claim (under §1.78) to the prior-filed nonprovisional application. The petition includes payment of the petition fee.

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:

---

[2] The regulations at 37 C.F.R. §1.57 provide that: "(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, 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)." And: The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

- Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
- Supply an English language translation of any prior-filed application that is in a language other than English.
- Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

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

> It 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 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 C.F.R. §1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 C.F.R. §1.55 for priority of a prior-filed foreign application, or a claim under 37 C.F.R. §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 C.F.R. §1.57(a) and 37 C.F.R. §1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 14, Claim 15).

Thus, the argument of the petition, though obviously not so stated, is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

**In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application**. (Should Petitioner seek to obtain entry of such amendment, Petitioner must present the Examiner with a copy of the prior-filed application averred to have been incorporated by reference in order to evidence the presence in the prior-filed application of the drawings averred herein to have been unintentionally omitted.)

In view of the foregoing, the Notice mailed on 11 July, 2007, hereby is withdrawn to the extent that it indicates no filing date will be granted.

## CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 30 May, 2007, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded via Treasury check. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is being referred to the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) to be processed for:

- **correction of the filing date to 30 May, 2007;**
- **for indication in Office records, as appropriate, with the 20 pages of specification (description, claims, abstract) and 6 pages of preliminary amendment (description, claims) deposited on 30 May, 2007, and "0" sheets of drawings were present on filing and**
- **for issuance of a filing receipt.**

**Entry of an amendment—if and when filed—will be determined by the Examiner**.

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

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

---

[3] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.

COPY MAILED
JUN 03 2008

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

| | | |
|---|---|---|
| In re Application of | : | |
| Watanabe, et al. | : | |
| Application No. 11/806,206 | : | DECISION |
| Filed/Deposited: 30May, 2007 | : | |
| Attorney Docket No. 06267.0103-01000 | : | |

This is a decision on the "Petition Under 37 C.F.R. §1.57(a) for Addition of Inadvertently Omitted Drawings ..." filed on 19 July, 2007, requesting that the instant application be accorded a filing date of 30 May, 2007, under 37 C.F.R. §1.57(a), based on the inadvertently omitted drawings being present in the prior-filed co-pending nonprovisional application to which this application claimed benefit under 37 C.F.R. §1.78 on filing. In light of the record this petition is being treated pursuant to 37 C.F.R. 1.53(e)(2)[1].

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

For the reasons stated herein, the petition as considered under the provisions of 3 7 C.F.R. §1.53(c)(2) is **GRANTED in part** and **DISMISSED in part**.

Application papers in the above-identified application were deposited on 30 May, 2007.

[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.

6/5/08

On 11 July, 2007, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 U.S.C. §113 (first sentence). The Office informed the Applicant that he/she might contend upon petition that the omitted items were received by the Office and so evidence (i.e., a copy of a date-stamped receipt card or Electronic Acknowledgment Receipt) and provide a copy of the omitted items; or submit the omitted missing items and accept the day of submission as the filing date.

On 19 July, 2007, Petitioner filed, *inter alia*, the instant petition with fee, (however, Petitioner filed no amendment and no copies of the drawings from the nonprovisional Application No. 10/398,373 (filed on 4 April, 2003) averred to contain the 7 sheets of drawings/figures averred to have been inadvertently omitted), and avers inadvertent omission of drawings figures and Petitioner points to the prior-filed and then-copending nonprovisional Application No. 10/398,373 (filed on 4 April, 2003), the claim for priority thereto made in the specification of the instant application and avers incorporation by reference therein.

Procedures and showings required for correction of a failure to include specifications and/or drawings from an application are set forth at 37 C.F.R. §1.57.[2] The instant application was filed after 21 September, 2004, and thus, the provisions of 37 C.F.R. 1.57(a) are applicable.

Petitioner asserts that the application as deposited for filing on 30 May, 2007,included a claim for priority to the prior-filed nonprovisional Application No. 10/398,373 (filed on 4 April, 2003), and that the drawings were inadvertently omitted from the instant application on deposit. A review of the application confirms that on filing it included a claim (under §1.78) to the prior-filed nonprovisional application. The petition includes payment of the petition fee.

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:

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[2] The regulations at 37 C.F.R. §1.57 provide that: "(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, 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)." And: The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

- Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
- Supply an English language translation of any prior-filed application that is in a language other than English.
- Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

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

> It 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 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 C.F.R. §1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 C.F.R. §1.55 for priority of a prior-filed foreign application, or a claim under 37 C.F.R. §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 C.F.R. §1.57(a) and 37 C.F.R. §1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 14, Claim 15).

Thus, the argument of the petition, though obviously not so stated, is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

**In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application**. (Should Petitioner seek to obtain entry of such amendment, Petitioner must present the Examiner with a copy of the prior-filed application averred to have been incorporated by reference in order to evidence the presence in the prior-filed application of the drawings averred herein to have been unintentionally omitted.)

In view of the foregoing, the Notice mailed on 11 July, 2007, hereby is withdrawn to the extent that it indicates no filing date will be granted.

## CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 30 May, 2007, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded via Treasury check. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is being referred to the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) to be processed for:

- **correction of the filing date to 30 May, 2007;**
- **for indication in Office records, as appropriate, with the 20 pages of specification (description, claims, abstract) and 6 pages of preliminary amendment (description, claims) deposited on 30 May, 2007, and "0" sheets of drawings were present on filing and**
- **for issuance of a filing receipt.**

**Entry of an amendment—if and when filed—will be determined by the Examiner.**

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

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

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[3] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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**PATTON BOGGS LLP**
**8484 WESTPARK DRIVE, SUITE 900**
**MCLEAN, VA 22102**

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**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | |
| Marc R. **LABGOLD, et al.** | |
| Application No. 11/806,282 | DECISION ON PETITION TO |
| Filed: May 31, 2007 | WITHDRAW FROM RECORD |
| Attorney Docket No. **025014.0119PTUS** | UNDER 37 CFR 1.36(b) |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 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 Scott A.M. Chambers on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

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

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

cc: **MARC A. LABGOLD**
**ANTARA BIOSCIENCE**
**2257 COMPASS POINT LANE**
**RESTON, VA 20191**

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

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AUG 25 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chien, Tseng-Lu | : | |
| Application No. 11/806,284 | : | ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. CHIE3114/BEU | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 9, 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 Replacement Drawings, (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

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

Mail Date: 06/18/2010

| | | |
|---|---|---|
| **Applicant** | : Tseng-Lu Chien | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632004 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/806,284 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |

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

The patent term adjustment has been determined to be **132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

| | | |
|---|---|---|
| In re Patent No. 7,355,919 | : | |
| Issue Date: April 8, 2008 | : | |
| Application No. 11/806,438 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. 029471-0230 | : | |

This is a decision on the petition under 37 CFR 1.182, filed July 11, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition under 37 CFR 1.182 requesting duplicate letters patent is **dismissed.**

The petition to expedite under 37 CFR 1.182 is **granted**.

The petition requesting duplicate letters patent is dismissed because no reason was supplied as to why the issuance of a duplicate letters patent is necessary for the above patent.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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**3000 K STREET NW**
**WASHINGTON DC 20007**

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|---|---|---|
| In re Patent No. 7,355,919 | : | |
| Issue Date: April 8, 2008 | : | |
| Application No. 11/806,438 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. 029471-0230 | : | |

This is a decision on the renewed petition under 37 CFR 1.182, filed November 20, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Toshihiro Okamatsu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626803 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/806,501 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **407** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 06/03/2010

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|---|---|---|
| **Applicant** | : Tuung Luoh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7625819 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/806,541 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **49** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WENDEROTH LIND & PONACK, LLP
2033 K STREET, NW
SUITE 800
WASHINGTON, DC 20006-1021

AUG 2 9 2007

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|---|---|---|
| In re Application of | : | |
| Norio KIMURA | : | DECISION ON REQUEST TO |
| Application No. 11/806,581 | : | PARTICIPATE IN PATENT |
| Filed: June 1, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 2007_0911 | : | 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 June 18, 2007 to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

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.

Kathryn Gorgos
TQAS TC 1700

Best Available Copy

Telephone: (202) 721-8200
G3 Fax: (202) 721-8250
G4 Fax: (202) 833-3015

Email: WLP@wenderoth.com
Website: www.wenderoth.com
Blog: www.uspatents.org

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Attorneys & Counselors at Law
Patents, Trademarks & Copyrights

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Benjamin A. Pezzlo
Kevin McDermott*
Mark D. Pratt

Aldo A. D'Ottavio (Agent)

*Member of a bar other than D.C., practice is limited to matters and proceedings before Federal Courts and Agencies.

## FACSIMILE COVER SHEET

Date: June 18, 2007

To: **Office of the Commissioner for Patents** Fax No.: 571-273-0125

**Attn: Magdalen Greenlief**

From: Nils E. Pedersen

Number of pages being transmitted, including this cover sheet: 44

Please direct all questions concerning the transmittal of these pages to Nils E. Pedersen.

**RE: Serial No. 11/806,581 (Norio KIMURA et al. ), filed May 31, 2007**

**MESSAGE:**

CONFIDENTIALITY NOTICE

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# REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

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| Application No.: | 11/806,581 | First Named Inventor: | Norio KIMURA |
| Filing Date: | June 1, 2007 | Attorney Docket No.: | 2007_0911 |
| Title of the Invention: | SUBSTRATE POLISHING APPARATUS AND SUBSTRATE POLISHING METHOD | | |

THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO: THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

**APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.**

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s).

**The JPO application number(s) is/are:** 2000-157007

**The filing date of the JPO application(s) is/are:** May 26, 2000

**I. List of Required Documents:**

a. **A copy of all JPO office actions (excluding "Decision to Grant a Patent"*) in the above-identified JPO application(s).**

☒ Is attached. (ATTACHMENT A1)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

*It is not necessary to submit a copy of the "Decision to Grant a Patent" and an English translation thereof.

b. **A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s).**

☒ Is attached. (ATTACHMENT A3)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

c. **English translations of the documents in a. and b. above along with a statement that the English translations are accurate are attached.** (ATTACHMENT B: Statement with respective translations)

**Information disclosure statement listing the documents cited in the JPO office actions is attached.** (ATTACHMENT C) (The cited documents were filed with the filing of the application)

Copies of all documents are attached except for U.S. patents or U.S. patent application publications.



This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: Magdalen Greenlief.

PTO/SB/20 (01-07)
Approved for use through 12/31/2008. OMB 0651-0058
U.S. Patent and Trademark Office; U.S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

(continued)

| Application No.: | 11/806,581 | First Named Inventor: | Norio KIMURA |
|---|---|---|---|

## II. Claims Correspondence Table:

| Claims in US Application | Patentable Claims in JP Application | Explanation regarding the correspondence |
|---|---|---|
| 1<br>2<br>3<br>4<br>5<br>6 | 1<br>2<br>3<br>4<br>5<br>6 | The U.S. claims are a translation of the patentable claims in the JP application |

## III. All the claims in the US application sufficiently correspond to the patentable/allowable claims in the JPO application.

## IV. Payment of Fees:

The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) to ☒ Deposit Account No. 23-0975

☐ Credit Card. Credit Card Payment Form (PTO-2038) is attached.

| Signature | | Date | June 18, 2007 |
|---|---|---|---|
| Name (Print/Typed) | Nils E. Pedersen | Registration Number | 33,145 |



charge petition fee to Deposit Acct #

# CERTIFICATION

I, Fujihiro Kanda, Patent Attorney of YUASA AND HARA, (Section 206, New Ohtemachi BLDG., Second Floor) 2-1, Ohtemachi 2-chome, Chiyoda-ku, Tokyo Japan, hereby certify that I am the translator of the copy of the following three documents A1-A3 in respect of an application for a patent No. 2000-157007 filed in Japan on the 26th day of May, 2000, and certify that the following is a true and correct translation to the best of my knowledge and belief.

A1: Notice of Reason for Rejection mailed on September 19, 2006

A2: Decision of Grant a Patent mailed on February 6, 2007

A3: Amendment filed on November 17, 2006

Date this 29th day of May, 2007

F. Kanda

Fujihiro Kanda



ATTACHMENT B

A 3

(Translation)
Appln. No. P2000-157007 (Proof)
Filing Date: November 17, 2006

[Name of Document] **AMENDMENT**
[Address] Commissioner of the JPO
[Indication of Case]
[Appln. No.] Patent Appln. No. 2000-157007

[Person who amends]
[ID. No.] 000000239
[Name] EBARA CORPORATION

[Agent]
[ID. No.] 100087066
[Patent Attorney]
[Name] Takashi KUMAGAI
[Tel. No.] 03-3464-2071

[Agent]
[ID. No.] 100094226
[Patent Attorney]
[Name] Hiroshi TAKAGI
[Tel. No.] 03-3464-2071

[Procedural Amendment 1]
[Name of Document Amended] Specification
[Name of Items of Amendment] Whole Text
[Way of Amendment] Revision
[Content of Amendment]

[NAME OF DOCUMENT] SPECIFICATION
[TITLE OF INVENTION]
Apparatus and Method for Polishing Substrate

[CLAIMS]
[Claim 1]
A substrate polishing apparatus comprising:
a polishing table having a polishing surface; and
a top ring for holding a substrate;
wherein a semiconductor substrate held by said top ring is pressed against said polishing surface of said polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, and said semiconductor substrate has a copper plating film layer formed on a barrier layer;

the apparatus further comprising:

pressing force changing mechanism for changing an pressing force for pressing the semiconductor substrate;

revolution number changing mechanism for changing the revolution number of the top ring and/or the polishing table; and

control means;

wherein said control means performs plural polishing processes on the same polishing table while changing the pressing force and the revolution number through said pressing force changing mechanism and said revolution number changing mechanism,

the apparatus further comprising: an eddy current sensor and an optical sensor within said polishing table, wherein the eddy current sensor measures a film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[Claim 2]

The substrate polishing apparatus according to claim 1, further comprising dressing means for dressing said polishing surface of said polishing table or cleaning means for cleaning said polishing surface of said polishing table, and wherein said control means controls said dressing means or said cleaning means between the plural polishing processes to effect dressing or cleaning of said polishing surface of said polishing table.

[Claim 3]

A substrate polishing method in which a semiconductor substrate held by a top ring is pressed against a polishing surface of a polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, wherein:

said semiconductor substrate has a copper plating film layer formed on a barrier layer, the semiconductor substrate is polished on the same polishing table through plural polishing processes while changing a pressing force for pressing the

semiconductor substrate and the number of revolutions of said top ring and/or said polishing table,

during the plural polishing processes, the eddy current sensor measures the film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[Claim 4]

The substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected while adding polishing liquid and/or reagent liquid having pH at the same side as pH 7.

[Claim 5]

The substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected by using same abrasive grain.

[Claim 6]

The substrate polishing method according to claim 3, wherein the polishing surface of the polishing table is cleaned between the plural stage polishing processes, and after the polishing surface is cleaned, the next stage polishing process is performed.

[DETAILED DESCRIPTION OF INVENTION]

[0001]

[FIELD OF INVENTION]

The present invention relates to a substrate polishing apparatus and a substrate polishing method for polishing a metallic coating or film formed on a surface of a substrate used in a semiconductor device manufacturing process, and, particularly in a process for forming metallic wiring with copper and the like.

[0002]

[PRIOR ARTS]

As integrating density on a semiconductor device has been increased, adoption of material of higher conductivity has been requested as material for forming a wiring circuit. To satisfy such request, a polishing method in which a film having high conductivity and made of copper or alloy thereof is formed on a surface of a substrate having grooves and/or holes corresponding to a wiring pattern and the substrate surface is

【書類名】 手続補正書
【あて先】 特許庁長官 殿
【事件の表示】
【出願番号】 特願2000-157007
【補正をする者】
【識別番号】 000000239
【氏名又は名称】 株式会社 荏原製作所
【代理人】
【識別番号】 100087066
【弁理士】
【氏名又は名称】 熊谷 隆
【電話番号】 03-3464-2071
【代理人】
【識別番号】 100094226
【弁理士】
【氏名又は名称】 高木 裕
【電話番号】 03-3464-2071
【手続補正1】
【補正対象書類名】 明細書
【補正対象項目名】 全文
【補正方法】 変更
【補正の内容】
【書類名】 明細書
【発明の名称】 基板研磨装置及び基板研磨方法
【特許請求の範囲】
【請求項1】 研磨面を有する研磨テーブルと、基板を保持するトップリングを具備し、該研磨テーブルの研磨面に該トップリングで保持された半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨装置であって、
前記半導体基板はバリア層の上にＣｕめっき膜層が形成された半導体基板であり、
前記半導体基板を押圧する押圧力を変える押圧力可変手段、前記トップリング及び／又は研磨テーブルの回転数を変える回転数可変手段及び制御手段を設け、
前記制御手段は前記押圧力可変手段及び回転数可変手段を介して押圧力及び回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、
前記基板研磨装置は、さらに前記研磨テーブル内に渦電流センサ及び光学式センサを備え、該渦電流センサは前記半導体基板のＣｕめっき膜層の膜厚を前記光学式センサが膜厚測定できる所定の膜厚になるまで測定し、前記光学式センサはＣｕめっき膜層の膜厚が該所定の膜厚以下になった時に測定することを特徴とする基板研磨装置。
【請求項2】 請求項1に記載の基板研磨装置において、
前記研磨テーブルの研磨面をドレッシングするドレッシング手段又は洗浄する洗浄手段を設け、
前記制御手段は前記研磨工程間に前記ドレッシング手段又は洗浄手段を制御して前記研磨テーブルの研磨面のドレッシング又は洗浄を行うことを特徴とする基板研磨装置。
【請求項3】 研磨テーブルの研磨面に、トップリングで保持した半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨方法であって、
前記半導体基板はバリア層の上にＣｕめっき膜層が形成された半導体基板であり、
前記半導体基板を押圧する押圧力、及び前記トップリング及び／又は研磨テーブル回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、該複数の研磨工程の内、前記半導体基板のＣｕめっき膜層の膜厚が光学式センサが測定できる所定の膜厚になるまで渦電流センサによって該Ｃｕめっき膜層の膜厚を測定し、該Ｃｕめっき膜厚が

該所定の厚さ以下になった時に前記光学式センサで該Ｃｕめっき膜層の膜厚を測定することを特徴とする基板研磨方法。

【請求項４】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程の研磨に際して、ｐＨがｐＨ７に対して同じ側にある研磨液及び／又は薬液を加えて研磨することを特徴とする基板研磨方法。

【請求項５】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程の研磨に際して、同じ砥粒を用いて研磨することを特徴とする基板研磨方法。

【請求項６】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程間に研磨テーブルの研磨面を洗浄し、その後次段の研磨工程を実施することを特徴とする基板研磨方法。

【発明の詳細な説明】

【０００１】

【発明の属する技術分野】

本発明は、半導体デバイス製造行程で特にＣｕ等の金属配線を形成する行程で使用する基板面に形成された金属薄膜を研磨する基板研磨装置及び基板研磨方法に関するものである。

【０００２】

【従来の技術】

半導体デバイスの集積度の向上に伴い、配線回路を形成する材料として、より導電率の高い材料の採用が要求されている。この要求に対して、配線パターンの溝や穴が形成された基板の表面にめっきにより導電率の高い銅又はその合金の薄膜を形成し、ポリッシング装置で配線パターンの溝や穴を充填した銅又はその合金を残し、化学的機械的研磨（ＣＭＰ）により、研磨除去する方法が注目されている。

【０００３】

半導体基板Ｗには図１（ａ）に示すように、半導体素子が形成された半導体基板１０１上に形成された導電層１０１ａの上に$SiO_2$からなる絶縁膜１０２が堆積され、リソグラフィ・エッチング技術によってコンタクトホール１０３と配線用の溝１０４が形成され、ＴｉＮ等からなるバリア層１０５、更にその上に電解めっきのための給電シード層１０７が形成されている。

【０００４】

そして、図１（ｂ）に示すように、前記半導体基板Ｗの表面に銅めっきを施すことで、半導体基板１０１のコンタクトホール１０３及び溝１０４内にＣｕを充填させると共に、絶縁膜１０２上にＣｕめっき膜層１０６を堆積させる。その後、化学的機械的研磨により、絶縁膜１０２上のＣｕめっき膜層１０６を除去して、コンタクトホール１０３及び配線用の溝１０４に充填させたＣｕめっき膜層１０６の表面と絶縁膜１０２の表面とをほぼ同一平面にする。これにより、図１（ｃ）に示すようなＣｕめっき膜層１０６からなる配線が形成される。

【０００５】

上記絶縁膜１０２上に形成された複数種類の膜であるバリア層１０５、給電シード層１０７及びＣｕめっき膜層１０６を化学的機械的研磨により研磨する場合には、２段及び３段の研磨条件を変えて研磨しなければならない。そして各段の研磨において、研磨テーブルを変えて研磨を行うため、研磨テーブル数が増え、研磨装置が大型化し構成が複雑になると共に、装置が高価なものとなる。また、半導体基板研磨のスループットが向上しないという欠点もある。

【０００６】

【発明が解決しようとする課題】

本発明は上述の点に鑑みてなされたもので、半導体基板の複数種類の膜を研磨する際に複数段の研磨を一つの研磨テーブルで行ない、研磨テーブル数が少なくて済み、装置をコンパクトに構成でき、且つ半導体基板研磨のスループットの向上が期待できる基板研磨装

A 1

(Translation)
Reference No. P2000-0121

Mailing No. 411261
Mailing Date: September 19, 2006

# NOTICE OF REASON FOR REJECTION

Patent Application Number: 2000-157007
Date of Drafting: September 11, 2006
Examiner: Ryuichi KOMATSU 9534 3P00
Agents: Takashi KUMAGAI (and one other)
Applied Provisions: 29(2)

This application is to be rejected for the following reason. The applicant is invited to file an argument, if any, within 60 days from the mailing date of this notice.

## REASON

The inventions defined in the following claims of this application are such as could be readily inferred by those skilled in the art from the inventions described in the following publications that were circulated in Japan or abroad or the inventions become available to the public through electric communication lines prior to the filing date of this application and, therefore, under the provisions of para. 2, Article 29 of the Patent Law, this application cannot be patented.

**NOTE** (As to the citations, etc., refer to Table of Cited Publications)

**Claims 1-8**
**Cited Ref. D1-D5**
**Examiner's Remarks:**

As to D1, refer to the description in [0005]-[0017].

The constitution of the film thickness detecting means is shown in D2 and D3. The cleaning process between the polishing process is described in D4.

Further, it is considered that, in view of the description of paragraph [0016], etc. of D5, the invention described in D5 includes the same constitution with regard to the pH of the polishing liquid as that of the invention defined in claim 5 of this application.

**Table of Cited Publications:**

D1: JP-A-10-055989
D2: JP-A-08-285514
D3: JP-A-07-235520
D4: JP-A-2000-061815
D5: JP-A-2000-012543

Additionally, as to filing an amendment, it is requested to give care sufficiently not to introduce any new matters and to underline below the amended portions (Patent Law Implementing Rule Form 13 Remarks 6). It is also requested to show in the argument the description in the original specification which supports the amended matters.

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

**RECORD of PRIOR ART DOCUMENTATION SEARCH**

Field of Search: IPC H01L 21/304

A 1



# 拒絶理由通知書

| | |
|---|---|
| 特許出願の番号 | 特願２０００－１５７００７ |
| 起案日 | 平成１８年　９月１１日 |
| 特許庁審査官 | 小松　竜一　　９５２４　３Ｐ００ |
| 特許出願人代理人 | 熊谷　隆（外　１名）　様 |
| 適用条文 | 第２９条第２項 |

この出願は、次の理由によって拒絶をすべきものである。これについて意見があれば、この通知書の発送の日から６０日以内に意見書を提出して下さい。

理　由

この出願の下記の請求項に係る発明は、その出願前に日本国内又は外国において、頒布された下記の刊行物に記載された発明又は電気通信回線を通じて公衆に利用可能となった発明に基いて、その出願前にその発明の属する技術の分野における通常の知識を有する者が容易に発明をすることができたものであるから、特許法第２９条第２項の規定により特許を受けることができない。

記　　（引用文献等については引用文献等一覧参照）

・請求項　１～８
・引用文献等　１～５
・備考

引用文献１は段落【０００５】～【００１７】の記載を参照されたい。

膜厚検出手段の構成は引用文献２及び３に、研磨工程間に洗浄を行うことは引用文献４にそれぞれ記載されている。

また、引用文献５に記載の発明も、段落【００１６】等の記載からみて、研磨液のｐＨにつき、この出願の請求項５に係る発明と同様の構成を有していると認められる。

引　用　文　献　等　一　覧

１．特開平１０－０５５９８９号公報
２．特開平０８－２８５５１４号公報
３．特開平０７－２３５５２０号公報
４．特開２０００－０６１８１５号公報
５．特開２０００－０１２５４３号公報

なお、補正にあたっては新規事項の追加とならないように十分留意し、補正により記載を変更した個所に下線を引く（特許法施行規則様式第１３備考６）とともに、その根拠を意見書中に明示されたい。

---

先行技術文献調査結果の記録

・調査した分野　ＩＰＣ　Ｈ０１Ｌ　２１／３０４

A 3

(Translation)
Appln. No. P2000-157007 (Proof)
Filing Date: November 17, 2006

[Name of Document] **AMENDMENT**
[Address] Commissioner of the JPO
[Indication of Case]
[Appln. No.] Patent Appln. No. 2000-157007

[Person who amends]
[ID. No.] 000000239
[Name] EBARA CORPORATION

[Agent]
[ID. No.] 100087066
[Patent Attorney]
[Name] Takashi KUMAGAI
[Tel. No.] 03-3464-2071

[Agent]
[ID. No.] 100094226
[Patent Attorney]
[Name] Hiroshi TAKAGI
[Tel. No.] 03-3464-2071

[Procedural Amendment 1]
[Name of Document Amended] Specification
[Name of Items of Amendment] Whole Text
[Way of Amendment] Revision
[Content of Amendment]

[NAME OF DOCUMENT] SPECIFICATION
[TITLE OF INVENTION]
Apparatus and Method for Polishing Substrate
[CLAIMS]
[Claim 1]
A substrate polishing apparatus comprising:
a polishing table having a polishing surface; and
a top ring for holding a substrate;
wherein a semiconductor substrate held by said top ring is pressed against said polishing surface of said polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, and said semiconductor substrate has a copper plating film layer formed on a barrier layer;

the apparatus further comprising:

pressing force changing mechanism for changing an pressing force for pressing the semiconductor substrate;

revolution number changing mechanism for changing the revolution number of the top ring and/or the polishing table; and

control means;

wherein said control means performs plural polishing processes on the same polishing table while changing the pressing force and the revolution number through said pressing force changing mechanism and said revolution number changing mechanism,

the apparatus further comprising: an eddy current sensor and an optical sensor within said polishing table, wherein the eddy current sensor measures a film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[Claim 2]

The substrate polishing apparatus according to claim 1, further comprising dressing means for dressing said polishing surface of said polishing table or cleaning means for cleaning said polishing surface of said polishing table, and wherein said control means controls said dressing means or said cleaning means between the plural polishing processes to effect dressing or cleaning of said polishing surface of said polishing table.

[Claim 3]

A substrate polishing method in which a semiconductor substrate held by a top ring is pressed against a polishing surface of a polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, wherein:

said semiconductor substrate has a copper plating film layer formed on a barrier layer, the semiconductor substrate is polished on the same polishing table through plural polishing processes while changing a pressing force for pressing the

semiconductor substrate and the number of revolutions of said top ring and/or said polishing table,

during the plural polishing processes, the eddy current sensor measures the film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[Claim 4]

The substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected while adding polishing liquid and/or reagent liquid having pH at the same side as pH 7.

[Claim 5]

The substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected by using same abrasive grain.

[Claim 6]

The substrate polishing method according to claim 3, wherein the polishing surface of the polishing table is cleaned between the plural stage polishing processes, and after the polishing surface is cleaned, the next stage polishing process is performed.

[DETAILED DESCRIPTION OF INVENTION]

[0001]

[FIELD OF INVENTION]

The present invention relates to a substrate polishing apparatus and a substrate polishing method for polishing a metallic coating or film formed on a surface of a substrate used in a semiconductor device manufacturing process, and, particularly in a process for forming metallic wiring with copper and the like.

[0002]

[PRIOR ARTS]

As integrating density on a semiconductor device has been increased, adoption of material of higher conductivity has been requested as material for forming a wiring circuit. To satisfy such request, a polishing method in which a film having high conductivity and made of copper or alloy thereof is formed on a surface of a substrate having grooves and/or holes corresponding to a wiring pattern and the substrate surface is

polished by a polishing apparatus with chemical and mechanical polishing (CMP) in such a manner that the film is removed from the substrate surface while remaining the film material filling the grooves and/or holes corresponding to the wiring pattern has been brought into notice.

[0003]

As shown in Fig. 1(a), in a semiconductor substrate W, an insulation film 102 made of $SiO_2$ is deposited on a conductive layer 101a formed on a semiconductor substrate 101 on which a semiconductor elements are formed, and contact holes 103 and wiring grooves 104 are formed in the film by a lithography etching technique, and a barrier layer 105 made of TiN is coated on the film and a feed seed layer 107 for electro-plating is formed on the barrier layer.

[0004]

Then, as shown in Fig. 1(b), by applying copper (Cu) plating on the surface of the semiconductor substrate W, the contact holes 103 and the grooves 104 of the semiconductor substrate 101 are filled with copper, and a copper plating layer 106 is deposited on the insulation film 102. Thereafter, by chemical and mechanical polishing, the copper plating layer 106 on the insulation film 102 is removed so that the surface of the copper plating layer 106 filled in the contact holes 103 and the wiring grooves 104 becomes substantially flush with the surface of the insulation film 102. As a result, the wiring comprised of the copper plating layer 106 as shown in Fig. 1(c) is obtained.

[0005]

When the barrier layer 105, feed seed layer 107 and copper plating layer 106 as plural kinds of layers formed on the insulation film 102 are polished by the chemical and mechanical polishing, the polishing must be performed while changing polishing condition at two or three stages. And, in each stage polishing, since a polishing table must be changed, as a whole, the number of tables is increased and the entire polishing apparatus is made bulky and complicated and is also made more expensive. Further, through-put of the semiconductor substrate polishing cannot be improved.

[0006]

[PROBLEMS TO BE SOLVED BY THE INVENTION]

The present invention is made in consideration of the above-mentioned conventional drawbacks, and an object of the present invention is to provide a substrate polishing apparatus

and a substrate polishing method, in which, when plural kinds of films on a semiconductor substrate are polished, plural stage polishing processes can be performed on a single polishing table to reduce the number of tables and to make the entire apparatus compact and which can enhance through-put of semiconductor substrate polishing.

[0007]

[MEANS FOR SOLVING THE PROBLEMS]

To achieve the above objects, according to the invention defined in claim 1, there is provided a substrate polishing apparatus comprising:

a polishing table having a polishing surface; and

a top ring for holding a substrate;

wherein a semiconductor substrate held by said top ring is pressed against said polishing surface of said polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, and said semiconductor substrate has a copper plating film layer formed on a barrier layer;

the apparatus further comprising:

pressing force changing mechanism for changing an pressing force for pressing the semiconductor substrate;

revolution number changing mechanism for changing the revolution number of the top ring and/or the polishing table; and

control means;

wherein said control means performs plural polishing processes on the same polishing table while changing the pressing force and the revolution number through said pressing force changing mechanism and said revolution number changing mechanism,

the apparatus further comprising: an eddy current sensor and an optical sensor within said polishing table, wherein the eddy current sensor measures a film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[0008]

The invention defined in claim 2 provides the substrate polishing apparatus according to claim 1, further comprising dressing means for dressing said polishing surface of said polishing table or cleaning means for cleaning said polishing surface of said polishing table, and wherein said control means controls said dressing means or said cleaning means between the plural polishing processes to effect dressing or cleaning of said polishing surface of said polishing table.

[0009]

A purpose for polishing the semiconductor substrate on which a pattern was formed is to remove minute unevenness (for example, unevenness having width of 0.1 μm to 2 μm and height of 500 nm to 1000 nm) and to achieve flatness. However, since a polishing pad has elasticity, the pad follows certain unevenness, with the result that the unevenness cannot be removed completely. In this case, the flatness is apt to be achieved if the polishing is performed with small load (urging force) and faster rotational speed. However, since the load is small, a polishing speed is reduced. In consideration of this, as mentioned above, by performing the polishing on the same polishing table through the plural polishing processes while changing the pressing force for pressing the semiconductor substrate and the number of revolutions of the top ring and/or the polishing table, the polishing is firstly effected with great load and fast rotational speed, and, thereafter, the unevenness is removed with small load. In this way, the polishing for flattening the surface to be polished can be achieved. Further, by reducing a relative speed for finish polishing, removal of scratches on the surface can be facilitated.

[0010]

The invention defined in claim 3 provides a substrate polishing method in which a semiconductor substrate held by a top ring is pressed against a polishing surface of a polishing table and a surface to be polished of the semiconductor substrate is polished by a relative movement between the semiconductor substrate and said polishing surface, wherein:

said semiconductor substrate has a copper plating film layer formed on a barrier layer, the semiconductor substrate is polished on the same polishing table through plural polishing processes while changing a pressing force for pressing the

semiconductor substrate and the number of revolutions of said top ring and/or said polishing table,

during the plural polishing processes, the eddy current sensor measures the film thickness of the copper plating film layer until the film thickness of the copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it.

[0011]

The invention defined in claim 4 provides a substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected while adding polishing liquid and/or reagent liquid having pH at the same side as pH 7.

[0012]

The invention defined in claim 5 provides the substrate polishing method according to claim 3, wherein, when said plural polishing processes are performed, the polishing is effected by using same abrasive grain.

[0013]

The invention defined in claim 6 provides a substrate polishing method according to claim 3, wherein the polishing surface of the polishing table is cleaned between the plural stage polishing processes, and after the polishing surface is cleaned, the next stage polishing process is performed.

[0014]

[EMBODIMENT OF THE INVENTION]

The present invention will now be explained in connection with embodiments thereof with reference to the accompanying drawings. Fig. 2 is a plan view showing a substrate processing apparatus having a substrate polishing apparatus according to the present invention. The substrate polishing apparatus includes a load/unload portion 1, a first robot 2, second cleaning machines 3, 4, a reverse rotation machine 5, a reverse rotation machine 6, a second robot 7, first cleaning machines 8, 9, a first polishing device 10 and a second polishing device 11.

[0015]

The polishing device 10 includes a polishing table 10-1, a top ring 10-2, a top ring head 10-3, a film thickness measuring device 10-4, a pusher 10-5 and a dresser 10-10. Further, the polishing device 11 includes a polishing table 11-1, a top ring

11-2, a top ring head 11-3, a film thickness measuring device 11-4, a pusher 11-5 and a dresser 11-10.

[0016]

Further, a drying condition film thickness measuring device 13 for measuring a film thickness in a drying condition after polishing is disposed in the vicinity of the first robot 12.

[0017]

In the substrate processing apparatus having the above-mentioned arrangement, a semiconductor substrate W on which a feed seed layer 107 and a plating film layer 106 were formed is set in a cassette 1-1 to rest it on a load port of the load/unload portion 1. The semiconductor substrate W is picked up from the cassette by the first robot 2, and the substrate is transferred to the reverse rotation machine 5 or the reverse rotation machine 6. In this case, the surface of the semiconductor substrate W on which the plating film layer 106 was formed is directed upwardly, and the surface on which the plating film layer 106 was formed is turned over by the reverse rotation machine 5 or the reverse rotation machine 6 to be directed downwardly.

[0018]

The semiconductor substrate W turned over by the reverse rotation machine 5 or the reverse rotation machine 6 is picked up by the second robot 7, and the semiconductor substrate W is rested on the pusher 10-5 of the polishing device 10 or the pusher 11-5 of the polishing device 11. The semiconductor substrate W is absorbed by the top ring 10-2 or the top ring 11-2, and a surface to be polished of the semiconductor substrate W is urged against a polishing surface of the polishing table 10-1 or the polishing table 11-1, and then the polishing is effected.

[0019]

Fig. 3 is a view showing a schematic construction of the polishing device 10 according to the present invention. As shown, the polishing device 10 has the polishing table 10-1 rotated by a motor M1 and the top ring 10-2 rotated by a motor M2, and the polishing table 10-1 and the top ring 10-2 is designed so that the numbers of revolutions thereof can be changed by a control portion 20. Further, the top ring head 10-3 can be turned around a rotary shaft 10-8 to be positioned above the polishing table 10-1 or above the film thickness measuring device 10-4 or above the pusher 10-5.

[0020]

The polishing surface 10-1a of the polishing table 10-1 is constituted by foam polyurethane or material in which abrasive grain is secured or impregnated. As abrasive grain of grinding or abrasive liquid supplied from a polishing liquid supply nozzle 10-6, silica is used, and, as oxidizing agent, material capable of oxidizing copper (Cu) such as hydrogen peroxide water or ammonia is used. The polishing table 10-1 and slurry or dressing water are temperature-adjusted to keep chemical reaction speed constant. In particular, the polishing table 10-1 is formed from alumina or ceramic such as SiC having good heat transferring ability, and a temperature-adjustment water pipe 10-7 is provided to supply temperature-adjustment water in the interior of the table.

[0021]

The top ring head 10-3 can be shifted upwardly and downwardly by a vertical direction driving mechanism 10-9, so that the semiconductor substrate W held by the top ring 10-2 can be urged against the polishing table with any pressing force by changing the pressing force under the control of the control portion 20. Further, as the film thickness measuring device 10-4 used for detecting an end point of the film thickness, an eddy current type or an optical type which will be described later is used to effect film thickness measurement of the copper plating film layer 106 and the copper feed seed layer 107 or detection of a film surface of a barrier layer 105 and an insulation film 102, and detection output is transferred to the control portion 20. Further, a surface temperature of the polishing surface 10-1a is detected by a radiation thermometer 10-12, and detection output is transferred to the control portion 20. Incidentally, since the construction of the polishing device 11 is the same as the polishing device 10, explanation thereof will be omitted.

[0022]

The polishing is effected through plural polishing processes. In a first polishing process, the copper plating film layer 106 is polished. A main purpose of the polishing in the first polishing process is to remove stepped difference, i.e., unevenness, and, in this case, slurry having good unevenness removing ability is used. For example, slurry capable of reducing initial unevenness of 700 nm of the copper plating film layer 106 having a film thickness of about 100 $\mu$m to 20 nm or less is used. In this case, the control portion

20 utilizes a polishing condition improving the unevenness removing ability by reducing the load for pressing the semiconductor substrate W against the polishing surface 10-1a of the polishing table 10-1 in a second polishing process to half or less of the pressing force in the first polishing process. The control of the load is effected by controlling the vertical direction driving mechanism 10-9 by means of the control portion 20.

[0023]

As the film thickness measuring device 10-4 for detecting end point of the film thickness in the second polishing process, when the copper plating film layer 106 is remained to a thickness of 50 nm (the film thickness upper limit value of the copper plating film layer which can be measured by an optical film thickness measuring device) or more, a film thickness measuring device of eddy current type is used, and, when the layer 106 is remained to a thickness smaller than 500 nm or when the layer is removed until the surface of the barrier layer 105 is exposed, a film thickness measuring device of optical type is used.

[0024]

Although the barrier layer 105 is polished after the polishing of the copper plating film layer 106 was finished, if the barrier layer 105 cannot abraded by the initially used slurry, composition of the slurry must be changed. Thus, the slurry used in the first and second polishing processes and remaining on the polished surface upon completion of the second polishing process is cleaned and removed by water polishing or water jet or atomizer or dresser, and then, the third polishing process is started.

[0025] Fig. 4 is a view showing a cleaning mechanism for cleaning the polishing surface 10-1a of the polishing table 10-1. As shown, a plurality (four in the illustrated embodiment) of mixing and injecting nozzles (atomizers) 10-11a to 10-11d for mixing pure water and nitrogen gas and for injecting the mixture are disposed above the polishing table 10-1. To each of the mixing and injecting nozzles 10-11a to 10-11d, nitrogen gas pressure of which is adjusted by a regulator 16 is supplied from a nitrogen gas supply source 14 through an air operator valve 18 and pure water pressure of which is adjusted by a regulator 17 is supplied from a pure water supply source 15 through an air operator valve 19.

[0026]

Regarding the mixed gas and liquid, by altering parameters such as pressure and temperature of the liquid and/or gas and nozzle configuration by means of the injecting nozzle, the liquid to be supplied is changed by the nozzle injection to (1) fine liquid droplets, (2) fine solidified particles or (3) vaporized gas droplets (here, (1), (2) and (3) are referred to as "fog" or "atomize"), and the mixture of liquid based component and gas component is injected toward the polishing surface of the polishing table 10-1 with predetermined orientation.

[0027]

When the polishing surface 10-1a is reproduced (dressed) by the relative movement between the polishing surface 10-1a and the dresser 10-10 obtained by sliding them, the mixture fluid comprised of pure water and nitrogen gas is injected toward the polishing surface 10-1a from the mixture injecting nozzles 10-11a to 10-11d, thereby cleaning the polishing surface. The pressure of the nitrogen gas and the pressure of the pure water can be set independently. In the illustrated embodiment, although both the pure water line and the nitrogen gas line include manually driven regulators, these line may include regulators capable of changing set pressure on the basis of an external signal. As a result of the cleaning of the polishing surface 10-1a by using the above-mentioned cleaning mechanism, it was found that, by effecting the cleaning for 5 to 20 seconds, slurry and polished residual matters remaining on the polishing surface after the first and second polishing processes can be removed. Incidentally, although not shown, a cleaning mechanism having the same construction as the cleaning mechanism shown in Fig. 4 is provided to clean the polishing surface 11-1a of the polishing device 11.

[0028]

In the above-mentioned description, an example that the atomizer and the mechanical dressing are effected simultaneously was explained. However, the atomizer, mechanical dressing, water polishing and water jet may be effected independently or effected with appropriate combination thereof. The mechanical dressing used here is generally is effected by using a diamond dresser designed so that a strip-shaped protruded portion to which diamond particles are electrically adhered is provided along a circumferential area on an under surface of the disk-shaped dresser 10-10 shown in

Fig. 4. When the mechanical dressing is effected, both the setting and the cleaning of the polishing surface can be achieved. Other than the diamond dresser, a dresser designed to include a nylon brush can be used.

[0029]

The water polishing means that, in place of the slurry supplied from the polishing liquid supply nozzle 10-6, pure water is used, and the polishing is effected under the supply of pure water while contacting the semiconductor substrate W with the polishing surface 10-1a as shown in Fig. 3. When the water polishing is performed, the pressing force of the top ring 10-2 is made smaller in comparison with the first and second polishing processes. By performing the water polishing, the polishing liquid used in the first and second polishing processes and remaining on the polishing surface is replaced by the pure water, thereby cleaning the polishing surface 10-1a.

[0030]

Fig. 5 is a view showing a construction of a cleaning mechanism for cleaning the polishing surface 10-1a of the polishing table 10-1 by using water jet. As shown, a dressing unit 10-13 is provided, and the dressing unit 10-13 includes a plurality (six in the illustrated embodiment) of water jet nozzles 10-13c disposed equidistantly along a radial direction above the polishing surface 10-1a of the polishing table 10-1. Each water jet nozzle 10-13c is secured to a water jet nozzle arm 10-13a having flow paths 10-13b therein.

[0031]

The pure water pressurized by a pump 23 is supplied to the water jet nozzles 10-13c through a tube 22, and the water jets are injected from the water jet nozzles 10-13c toward the polishing surface 10-1a. Water pressure of the water jet nozzle arm 10-13a is adjusted by a control portion (not shown) for the pump 23 to be maintained to predetermined pressure. Further, the water jet nozzle arm 10-13a has the same construction so that injecting pressures and injecting speeds of water jet from the respective nozzles becomes substantially the same as each other. The pressure of the water jet can be maintained within a predetermined pressure range from 5 to 30 kg/cm2 by controlling the pump 23.

[0032]

Fig. 9 shows a relationship between a flow of first to third polishing processes and kind of abrasive grain/slurry, top ring pressing force and top ring revolution number used in

the polishing processes. As shown in Fig. 9, in the first polishing process, silica and copper polishing slurry are used as abrasive grain and slurry, and the top ring pressing force is set to 400 g/cm2 and the top ring revolution number (number of revolutions of the top ring) is set to 70 rpm. In the next second polishing process, silica and copper polishing slurry are used as abrasive grain and slurry, and the top ring pressing force is set to 200 g/cm2 and the top ring revolution number is set to 70 rpm. It is ascertained whether the copper plating film layer 106 and the feed seed layer 107 are removed or not, by using the end point measurement.

[0033]

After it was ascertained that the copper plating film layer 106 and the feed seed layer 107 are polished and removed by the end point measurement, the slurry used in the first and second polishing processes and remaining on the polishing surface 10-1a is cleaned and removed by the water polishing or the water jet or the atomizer or the dresser, and then the third polishing process is started. In the third polishing process, silica and Ta polishing slurry are used as abrasive grain and slurry, and the top ring pressing force is set to 200 g/cm2 and the top ring revolution number is set to 50 rpm.

[0034]

It is desirable that the abrasive grain used in the slurry for polishing the barrier layer 105 in the third polishing process is the same as the abrasive grain in the polishing for polishing the copper plating film layer 106 and the feed seed layer 107 in the first and second polishing processes. Further, pH of reagent (for example, oxidizing agent) added to the polishing liquid or slurry in the respective polishing processes is offset toward either acidic side or alkaline side in each polishing process. By using such polishing liquid, the residual matters remaining on the cloth constituting the polishing surface 10-1a in the first and second polishing processes is prevented from reacting to the polishing liquid used in the third polishing process to form any compound.

[0035]

As a result of tests, it was found, when the silica used in both polishing processes are in the alkaline side and when the silica is in the acidic side, both cases lead to good results. In the film thickness end point detection in the third polishing process, since the film thickness is small, the film thickness measuring device of optical type is used to

detect the remainder of the barrier layer 105, and a detection signal is sent to the control portion 20. Incidentally, in the polishing using fixed abrasive grain (abrasive grain dispersed and fixed in binding agent), the slurry is not used as the polishing liquid, but reagent liquid or pure water is supplied to effect the polishing.

[0036]

In this case, it is preferable that the polishing liquid used in the first and second polishing processes and the polishing liquid used in the third polishing process are both in the alkaline side or both in the acidic side. The polishing liquids representing pH in the same side with respect to pH 7 are desirable. However, when neutral polishing liquid is used, in each polishing process, combinations of neutral/neutral, neutral/alkaline and neutral/acidic can be considered. The important matter is that the acidic polishing liquid and the alkaline polishing liquid are not used simultaneously on the same polishing table.

[0037]

Incidentally, the abrasive grain used in the first and second polishing processes and the abrasive grain used in the third polishing process do not arise any problem even if particle diameters thereof are different from each other. Further, while an example that the slurry (liquid in which abrasive grain is suspended) is used as the polishing liquid was explained, the polishing liquid is not limited to the slurry. For example, in the third polishing process, the polishing can be effected only by using reagent liquid not including abrasive grain, and, in this case, there is a problem regarding only pH of the polishing liquid used in the first and second polishing processes and pH of the polishing liquid used in the third polishing process. That is to say, in the series of polishing processes, the polishing liquids should be standardized to the acidic side or the alkaline side.

[0038]

Further, although not shown, the film thickness measuring devices 10-4, 11-4 disposed in the vicinity of the polishing table 10-1 of the polishing device 10 and the polishing table 11-1 of the polishing device 11 are constituted by film thickness measuring devices having image processing devices, so that the film thickness measured by each film thickness measuring device is stored as working record of the semiconductor substrate W and/or judgment is effected whether

or not the polished semiconductor substrate W can be transferred to the next process. Further, if a predetermined polished amount is not attained after the polishing is finished, the polishing is performed again. Further, if the excessive amount is polished for any abnormal reason, the apparatus is stopped not to perform the next polishing, thereby preventing the number of poor parts from being increased.

[0039]

As mentioned above, since the first to third polishing processes can be carried out on the single polishing table 10-1 or 11-1, the number of polishing tables can be reduced, thereby making the entire apparatus more compact and enhancing throughput of the substrate polishing.

[0040]

After the polishing is finished, the semiconductor substrate W is returned to the pusher 10-5 or 11-5 by the top ring 10-2 or 11-2, and then, the semiconductor substrate W is picked up by the second robot 7 to bring it into the first cleaning machine 8 or 9, and primary cleaning is effected. In this case, reagent liquid may be injected onto the front and rear surfaces of the semiconductor substrate W rested on the pusher 10-5 or 11-5 to remove the particles and/or to treat such surfaces to a condition that the particles are hard to be adhered to such surfaces.

[0041]

In the primary cleaning by using the first cleaning machine 8 or 9, the front and rear surfaces of the semiconductor substrate W is subjected to scrub cleaning. Fig. 6 shows a construction of the first cleaning machine 8. As shown, in the first cleaning machine 8, the semiconductor substrate W is pinched by a plurality of substrate rotating rollers 8-1 to rotate in a horizontal plane. Rotating PVA sponge rolls 8-2 are provided so that they can be urged against the front and rear surfaces of the semiconductor substrate W. Further, cation water nozzles 8-4 having ultrasonic oscillators 8-3 and DHF nozzles 8-5 are disposed above and below the semiconductor substrate W. In order to remove the particles, pure water, surface-active agent, chelate agent and/or pH adjusting agent are supplied onto the surfaces of the semiconductor substrate W, the scrub cleaning is effected by using the PVA sponge rolls 8-2. Strong reagent liquid such as DHF is sprayed onto the rear surface of the semiconductor substrate W to effect of etching of diffused copper, or, when

there is no diffusion, the rear surface of the semiconductor substrate is subjected to the scrub cleaning by using the same reagent liquid as that used regarding the front surface. Incidentally, the first cleaning machine 9 has the same construction as the first cleaning machine 8.

[0042]

After the cleaning by using the first cleaning machine 8 or 9, the semiconductor substrate W is picked up by the second robot 7, and then, the substrate is transferred to the reverse rotation machine 5 or 6, where the semiconductor substrate W is turned over. The semiconductor substrate is picked up from the reverse rotation machine 5 or 6 by the first robot 2, and the semiconductor substrate is sent to the second cleaning machine 3 or 4, where secondary cleaning is effected. Although not shown, the second cleaning machine 3 or 4 has the same construction as the first cleaning machines 8, 9. Further, pure water, surface-active agent, chelate agent and/or pH adjusting agent may be supplied and the surface may be cleaned by pencil sponge. Thereafter, spin drying is performed and then the semiconductor substrate W is picked up by the first robot 2.

[0043]

When the film thickness is measured by the film thickness measuring device 10-4 or 11-4 disposed in the vicinity of the polishing table 10-1 or 11-1, the first robot 2 returns the semiconductor substrate W onto the cassette rested on the unload port of the load/unload portion 1. When the multi-layer film measurement is performed, since the measurement must be performed under a dried condition, the film thickness is measured by the dried condition film thickness measuring device 13. Where, the measured film thickness is stored as working record of the semiconductor substrate W and/or judgement is effected whether or not the polished semiconductor substrate can be transferred to the next process.

[0044]

Fig. 7 is a perspective view of the second robot 7. As shown, the second robot 7 has two upper and lower hands 7-1, and the hands 7-1 are attached to distal ends of respective arms 7-2 so that they can be turned. The semiconductor substrate W is dipped up by the hands 7-1 (semiconductor substrate W is dropped down), so that the semiconductor substrate can be transferred to a desired position.

[0045]

Fig. 8 is a view showing the construction of the film thickness measuring device provided on the polishing device 10 and adapted to measure the film thickness of the semiconductor substrate W being polished. As shown, a film thickness measuring device 10-14 of eddy current type and a film thickness measuring device 10-15 of optical type are provided within the polishing table 10-1 and serve to measure the film thickness of the polished surface of the semiconductor substrate held by the top ring 10-2 and being polished.

[0046]

In the film thickness measuring device 10-14 of eddy current type, eddy current is generated in conductive films (copper plating film layer 106 and feed seed layer 107) of the semiconductor substrate W by applying high frequency electrical current to a sensor coil, and, since the eddy current is changed in accordance with the film thickness, by monitoring combined impedance with a sensor circuit, the film thickness is measured.

[0047]

On the other hand, the film thickness measuring device 10-15 of optical type has a light emitting element and a light receiving element and is designed so that light from the light emitting element is illuminated onto the surface to be polished of the semiconductor substrate W and light reflected from the surface to be polished is received by the light receiving element. As the conductive film (Cu film) of the semiconductor substrate W reached a predetermined film thickness, a part of the light illuminated from the light emitting element onto the surface to be polished is permeated through the conductive film, with the result that there exist two light, i.e., reflected light reflected from the oxidation film ($SiO_2$) underlying the conductive film and reflected light reflected from the surface of the conductive film. By receiving such two lights by means of the light receiving element and by processing such lights, the film thickness is measured.

[0048]

[EFFECTS OF INVENTION]

As mentioned above, according to the present invention, the following excellent effect can be achieved.

[0049]

The eddy current sensor measures a film thickness of the copper plating film layer until the film thickness of the

copper plating film layer reaches a predetermined film thickness which is measurable by the optical sensor, and the optical sensor measures the film thickness of the copper plating film layer when the film thickness of the copper plating film layer reaches the predetermined film thickness or less than it. Since an eddy current sensor and an optical sensor are used according to the film thickness of a semiconductor substrate, it is possible for both sensors to supply characteristics each other. That is, the sensibility of the eddy current sensor becomes worse when the film thickness of the copper plating film layer becomes thin. Thus, when the sensibility of the eddy current sensor becomes worse, the film thickness of the copper plating film layer is measured by an optical sensor instead of the eddy current sensor. Since a semiconductor substrate is polished through a plurality of polishing processes effected on the same polishing table, it provides excellent effects such as the number of polishing tables can be reduced, the apparatus can be made compact, the polishing end point can be detected accurately, and the through-put (processing amount per unit time) for the substrate polishing can be enhanced.

[BRIEF DESCRIPTION OF THE DRAWINGS]

[Fig.1]

Figs. 1(a) to 1(c) are explanatory views for forming a circuit wiring on a semiconductor substrate.

[Fig.2]

Fig. 2 is a plan view showing a substrate processing apparatus having a substrate polishing apparatus according to the present invention.

[Fig.3]

Fig. 3 is a view showing a construction of a polishing device of the substrate polishing apparatus according to the present invention.

[Fig.4]

Fig. 4 is a view showing a construction of a cleaning mechanism for a polishing surface of a polishing table of the substrate polishing apparatus according to the present invention.

[Fig.5]

Fig. 5 is a view showing a construction of a cleaning mechanism for a polishing surface of a polishing table of the substrate polishing apparatus according to the present invention.

[Fig.6]

Fig. 6 is a view showing a construction of a first cleaning machine of the substrate polishing apparatus according to the present invention.

[Fig.7]

Fig. 7 is a perspective view of a second robot of the substrate polishing apparatus according to the present invention.

[Fig.8]

Fig. 8 is a view showing a construction of a film thickness measuring device for measuring a film thickness the substrate during the polishing used by the substrate polishing apparatus according to the present invention.

[Fig.9]

Fig. 9 is a view showing an example of a relationship between a flow of polishing processes of the polishing apparatus according to the present invention and kind of abrasive grain/slurry, top ring pressing force and top ring revolution number used.

[EXPLANATION OF REFERENCE SYMBOLS]

1: load/unload portion, 2: first robot, 3: second cleaning machine, 4: second cleaning machine, 5: reverse rotation machine, 6: reverse rotation machine, 7: second robot, 8: first cleaning machine, 9: first cleaning machine, 10: first polishing device, 11: second polishing device, 13: dried condition film thickness measuring device, 14: nitrogen gas supply source, 15: pure water supply source, 16: regulator, 17: regulator, 18: air operator valve, 19: air operator valve, 20: control portion, 22: tube, 23: pump.

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【補正の内容】
【書類名】 明細書
【発明の名称】 基板研磨装置及び基板研磨方法
【特許請求の範囲】
【請求項1】 研磨面を有する研磨テーブルと、基板を保持するトップリングを具備し、該研磨テーブルの研磨面に該トップリングで保持された半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨装置であって、
前記半導体基板はバリア層の上にＣｕめっき膜層が形成された半導体基板であり、
前記半導体基板を押圧する押圧力を変える押圧力可変手段、前記トップリング及び／又は研磨テーブルの回転数を変える回転数可変手段及び制御手段を設け、
前記制御手段は前記押圧力可変手段及び回転数可変手段を介して押圧力及び回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、
前記基板研磨装置は、さらに前記研磨テーブル内に渦電流センサ及び光学式センサを備え、該渦電流センサは前記半導体基板のＣｕめっき膜層の膜厚を前記光学式センサが膜厚測定できる所定の膜厚になるまで測定し、前記光学式センサはＣｕめっき膜層の膜厚が該所定の膜厚以下になった時に測定することを特徴とする基板研磨装置。
【請求項2】 請求項1に記載の基板研磨装置において、
前記研磨テーブルの研磨面をドレッシングするドレッシング手段又は洗浄する洗浄手段を設け、
前記制御手段は前記研磨工程間に前記ドレッシング手段又は洗浄手段を制御して前記研磨テーブルの研磨面のドレッシング又は洗浄を行うことを特徴とする基板研磨装置。
【請求項3】 研磨テーブルの研磨面に、トップリングで保持した半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨方法であって、
前記半導体基板はバリア層の上にＣｕめっき膜層が形成された半導体基板であり、
前記半導体基板を押圧する押圧力、及び前記トップリング及び／又は研磨テーブル回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、該複数の研磨工程の内、前記半導体基板のＣｕめっき膜層の膜厚が光学式センサが測定できる所定の膜厚になるまで渦電流センサによって該Ｃｕめっき膜層の膜厚を測定し、該Ｃｕめっき膜厚が

該所定の厚さ以下になった時に前記光学式センサで該Ｃｕめっき膜層の膜厚を測定することを特徴とする基板研磨方法。

【請求項４】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程の研磨に際して、ｐＨがｐＨ７に対して同じ側にある研磨液及び／又は薬液を加えて研磨することを特徴とする基板研磨方法。

【請求項５】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程の研磨に際して、同じ砥粒を用いて研磨することを特徴とする基板研磨方法。

【請求項６】 請求項３に記載の基板研磨方法において、

前記複数の研磨工程間に研磨テーブルの研磨面を洗浄し、その後次段の研磨工程を実施することを特徴とする基板研磨方法。

【発明の詳細な説明】

【０００１】

【発明の属する技術分野】

本発明は、半導体デバイス製造行程で特にＣｕ等の金属配線を形成する行程で使用する基板面に形成された金属薄膜を研磨する基板研磨装置及び基板研磨方法に関するものである。

【０００２】

【従来の技術】

半導体デバイスの集積度の向上に伴い、配線回路を形成する材料として、より導電率の高い材料の採用が要求されている。この要求に対して、配線パターンの溝や穴が形成された基板の表面にめっきにより導電率の高い銅又はその合金の薄膜を形成し、ポリッシング装置で配線パターンの溝や穴を充填した銅又はその合金を残し、化学的機械的研磨（ＣＭＰ）により、研磨除去する方法が注目されている。

【０００３】

半導体基板Ｗには図１（ａ）に示すように、半導体素子が形成された半導体基板１０１上に形成された導電層１０１ａの上に$SiO_2$からなる絶縁膜１０２が堆積され、リソグラフィ・エッチング技術によってコンタクトホール１０３と配線用の溝１０４が形成され、ＴｉＮ等からなるバリア層１０５、更にその上に電解めっきのための給電シード層１０７が形成されている。

【０００４】

そして、図１（ｂ）に示すように、前記半導体基板Ｗの表面に銅めっきを施すことで、半導体基板１０１のコンタクトホール１０３及び溝１０４内にＣｕを充填させると共に、絶縁膜１０２上にＣｕめっき膜層１０６を堆積させる。その後、化学的機械的研磨により、絶縁膜１０２上のＣｕめっき膜層１０６を除去して、コンタクトホール１０３及び配線用の溝１０４に充填させたＣｕめっき膜層１０６の表面と絶縁膜１０２の表面とをほぼ同一平面にする。これにより、図１（ｃ）に示すようなＣｕめっき膜層１０６からなる配線が形成される。

【０００５】

上記絶縁膜１０２上に形成された複数種類の膜であるバリア層１０５、給電シード層１０７及びＣｕめっき膜層１０６を化学的機械的研磨により研磨する場合には、２段及び３段の研磨条件を変えて研磨しなければならない。そして各段の研磨において、研磨テーブルを変えて研磨を行うため、研磨テーブル数が増え、研磨装置が大型化し構成が複雑になると共に、装置が高価なものとなる。また、半導体基板研磨のスループットが向上しないという欠点もある。

【０００６】

【発明が解決しようとする課題】

本発明は上述の点に鑑みてなされたもので、半導体基板の複数種類の膜を研磨する際に複数段の研磨を一つの研磨テーブルで行ない、研磨テーブル数が少なくて済み、装置をコンパクトに構成でき、且つ半導体基板研磨のスループットの向上が期待できる基板研磨装

置及び基板研磨方法を提供することを目的とする。

【0007】

【課題を解決するための手段】

上記課題を解決するため請求項1に記載の発明は、研磨面を有する研磨テーブルと、基板を保持するトップリングを具備し、該研磨テーブルの研磨面に該トップリングで保持された半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨装置であって、半導体基板はバリア層の上にCuめっき膜層が形成された半導体基板であり、半導体基板を押圧する押圧力を変える押圧力可変手段、トップリング及び／又は研磨テーブルの回転数を変える回転数可変手段及び制御手段を設け、制御手段は押圧力可変手段及び回転数可変手段を介して押圧力及び回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、基板研磨装置は、さらに研磨テーブル内に渦電流センサ及び光学式センサを備え、該渦電流センサは半導体基板のCuめっき膜層の膜厚を光学式センサが膜厚測定できる所定の膜厚になるまで測定し、光学式センサはCuめっき膜層の膜厚が該所定の膜厚以下になった時に測定することを特徴とする。

【0008】

請求項2に記載の発明は、請求項1に記載の基板研磨装置において、研磨テーブルの研磨面をドレッシングするドレッシング手段又は洗浄する洗浄手段を設け、制御手段は研磨工程間にドレッシング手段又は洗浄手段を制御して研磨テーブルの研磨面のドレッシング又は洗浄を行うことを特徴とする。

【0009】

パターンが形成された半導体基板を研磨する目的は、微小な凹凸（例えば巾が0．1μm～2μm、高さが500nm～1000nmの凹凸）を除去して平坦にすることにある。ところが研磨パッドに弾性があるので、ある程度の凹凸にはならってしまい、凹凸が除去できないという問題がある。そのとき軽い荷重（押圧力）、速い回転速度で研磨すると平坦になりやすい。但し、荷重が軽いので研磨速度は遅くなる。そこで上記のように半導体基板を押圧する押圧力、及びトップリング及び／又は研磨テーブル回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨することにより、最初重い荷重、速い回転速度で研磨し、その後、軽い荷重で段差を除去し、被研磨面を平坦にする研磨が可能になる。更に、仕上げ研磨の相対速度を遅くして、表面のスクラッチを除去することが容易となる。

【0010】

請求項3に記載の発明は、研磨テーブルの研磨面に、トップリングで保持した半導体基板を押圧し、該半導体基板と該研磨面の相対運動により該半導体基板を研磨する基板研磨方法であって、半導体基板はバリア層の上にCuめっき膜層が形成された半導体基板であり、半導体基板を押圧する押圧力、及び前記トップリング及び／又は研磨テーブル回転数を変えながら同一研磨テーブル上で複数の研磨工程を経て研磨を行い、該複数の研磨工程の内、半導体基板のCuめっき膜層の膜厚が光学式センサが測定できる所定の膜厚になるまで渦電流センサによって該Cuめっき膜層の膜厚を測定し、該Cuめっき膜厚が該所定の厚さ以下になった時に前記光学式センサで該Cuめっき膜層の膜厚を測定することを特徴とする。

【0011】

請求項4に記載の発明は、請求項3に記載の基板研磨方法において、

前記複数の研磨工程の研磨に際して、pHがpH7に対して同じ側にある研磨液及び／又は薬液を加えて研磨することを特徴とする基板研磨方法。

【0012】

請求項5に記載の発明は、請求項3に記載の基板研磨方法において、複数の研磨工程の研磨に際して、同じ砥粒を用いて研磨することを特徴とする。

【0013】

請求項6に記載の発明は、請求項3に記載の基板研磨方法において、複数の研磨工程間に研磨テーブルの研磨面を洗浄し、その後次段の研磨工程を実施することを特徴とする

【0014】

【発明の実施の形態】

以下、本発明の実施の形態例を図面に基づいて説明する。図2は本発明に係る基板研磨装置を具備する基板処理装置の平面配置構成を示す図である。本基板研磨装置はロードアンロード部1、第1ロボット2、第2洗浄機3、第2洗浄機4、反転機5、反転機6、第2ロボット7、第1洗浄機8、第1洗浄機9、第1ポリッシング装置10及び第2ポリッシング装置11が配置されて構成されている。

【0015】

ポリッシング装置10は研磨テーブル10－1、トップリング10－2、トップリングヘッド10－3、膜厚測定機10－4、プッシャー10－5及びドレッサー10－10を具備する。また、ポリッシング装置11は研磨テーブル11－1、トップリング11－2、トップリングヘッド11－3、膜厚測定機11－4、プッシャー11－5及びドレッサー11－10を具備する。

【0016】

また、第1ロボット2の近傍には研磨後の乾燥状態の膜厚を測定する乾燥状態膜厚測定機13が配置されている。

【0017】

上記構成の基板処理装置において、給電シード層107及びめっき膜層106を形成した半導体基板W（図1参照）をカセット1－1にセットし、ロードアンロード部1のロードポートに載置する。第1ロボット2で半導体基板Wを該カセットから取り出し、反転機5又は反転機6に渡す。このとき半導体基板Wのめっき膜層106の形成面は上向きであり、反転機5又は反転機6で該めっき膜層106の形成面を下向きに反転させる。

【0018】

第2ロボット7で反転機5又は反転機6で反転された半導体基板Wを取り上げポリッシング装置10のプッシャー10－5又はポリッシング装置11のプッシャー11－5に半導体基板Wを載せる。トップリング10－2又はトップリング11－2で半導体基板Wを吸着し、研磨テーブル10－1又は研磨テーブル11－1の研磨面に該半導体基板Wの被研磨面を押圧して研磨を行う。

【0019】

図3はポリッシング装置10の概略構成を示す図である。図示するようにポリッシング装置10はモータM1により回転する研磨テーブル10－1とモータM2により回転するトップリング10－2を具備し、研磨テーブル10－1及びトップリング10－2は制御部20により、その回転数が可変できるようになっている。また、トップリングヘッド10－3は旋回軸10－8で旋回し、研磨テーブル10－1の上部、膜厚測定機10－4の上部及びプッシャー10－5の上部に位置することができるようになっている。

【0020】

研磨テーブル10－1の研磨面10－1aは発泡ポリウレタン若しくは砥粒を固定又は含浸させたもので構成されている。研磨液供給ノズル10－6から供給される砥液の砥粒には、シリカが用いられ、酸化剤としては、過酸化水素水やアンモニア等Cuを酸化させる材料を用いる。研磨テーブル10－1やスラリー又は、ドレッシング時の水等は調温され化学反応速度を一定に保つようになっている。特に研磨テーブル10－1は、熱伝導性の良いアルミナやSiC等のセラミックが用いられ、内部に調温水を供給できるように調温水配管10－7が配置されている。

【0021】

トップリングヘッド10－3は上下駆動機構10－9により上下動できるようになっており、制御部20の制御によりトップリング10－2に保持された半導体基板Wを押圧力を変えて任意の押圧力で押圧できるようになっている。また、膜厚の終点（エンドポイント）検知に用いる膜厚測定機10－4には、後述する渦電流式若しくは光学式のものを使用し、Cuめっき膜層106、Cuの給電シード層107の膜厚測定、若しくはバリア層

１０５の膜表面や絶縁膜１０２の検知を行ない、その検知出力を制御部２０に伝送するようになっている。また、研磨面１０－１ａの表面温度は放射温度計１０－１２により検知され、その検知出力は制御部２０に伝送するようになっている。なお、ポリッシング装置１１の構成もポリッシング装置１０と同一であるのでその説明は省略する。

【００２２】

研磨は複数の研磨工程を経て行なう。第１研磨工程ではＣｕめっき膜層１０６の研磨を行なう。この第１研磨工程の研磨の主目的はＣｕめっき膜層１０６の段差の除去で段差特性に優れたスラリーを用いる。例えば、Ｃｕめっき膜層１０６の膜厚が１００μｍ程度の当初の段差７００ｎｍを２０ｎｍ以下にできるものを用いる。このとき制御部２０は第２研磨工程として半導体基板Ｗを研磨テーブル１０－１の研磨面１０－１ａに押圧する荷重を前記第１研磨工程の半分以下にし、段差特性をよくする研磨条件を入れる。この荷重の制御は制御部２０により上下駆動機構１０－９を制御して行う。

【００２３】

第２研磨工程における膜厚の終点検知を行なう膜厚測定機１０－４には、Ｃｕめっき膜層１０６を５０ｎｍ（光学式膜厚測定機で膜厚測定できるＣｕめっき膜層の膜厚上限値）以上残す場合は、後述する渦電流式の膜厚測定機が用いられ、それ以下の場合やバリア層１０５の表面まで削る場合は、光学式膜厚測定機が用いられる。

【００２４】

Ｃｕめっき膜層１０６の研磨が終了した後にバリア層１０５の研磨を行なうが、通常最初に用いたスラリーでは、バリア層１０５が削れない場合、組成を変更する必要がある。よって第２研磨工程が終了した時点で研磨面に残った、上記第１研磨工程及び第２研磨工程でのスラリーを水ポリッシュ、又はウォータジェット、又はアトマイザー、又はドレッサーにより除去洗浄し、次の第３研磨工程に移る。

【００２５】

図４は上記研磨テーブル１０－１の研磨面１０－１ａを洗浄する洗浄機構の構成を示す図である。図示するように、研磨テーブル１０－１の上部には純水と窒素ガスを混合して噴射する混合噴射ノズル（アトマイザー）１０－１１ａ～１０－１１ｄが複数個（図では４個）配置されている。各混合噴射ノズル１０－１１ａ～１０－１１ｄには窒素ガス供給源１４からレギュレータ１６で圧力調整された窒素ガスがエアオペレータバルブ１８を通して供給されると共に、純水供給源１５からレギュレータ１７で圧力を調整された純水がエアオペレータバルブ１９を通して供給される。

【００２６】

混合された気体と液体は噴射ノズルによってそれぞれ液体及び／又は気体の圧力、温度、ノズル形状などのパラメータを変更することによって、供給する液体がノズル噴射によりそれぞれ、（１）液体微粒子化、（２）液体が凝固した微粒子固体化、（３）液体が蒸発した気化体（これら（１）、（２）、（３）をここでは霧状化又はアトマイズと呼ぶ）され、液体由来成分と気体成分の混合体が研磨テーブル１０－１の研磨面に向けて所定の方向性を有して噴射される。

【００２７】

研磨面１０－１ａとドレッサー１０－１０を摺動させ、両者の相対運動により、研磨面１０－１ａを再生（ドレッシング）するとき、混合噴射ノズル１０－１１ａ～１０－１１ｄから純水と窒素ガスの混合流体を研磨面１０－１ａに噴射して洗浄する。窒素ガスの圧力と純水の圧力は独立して設定できるようになっている。本実施例では純水ライン、窒素ラインともにマニュアル駆動のレギュレータを用いているが外部信号に基づいて設定圧力を変更できるレギュレータをそれぞれ用いても良い。上記洗浄機構を用いて研磨面１０－１ａを洗浄した結果、５～２０秒洗浄を行なうことにより、上記第１研磨工程及び第２研磨工程で研磨面上に残ったスラリーや研磨かすを除去することができた。なお、図示は省略するが、ポリッシング装置１１の研磨面１１－１ａを洗浄するために、図４に示す構成と同一の洗浄機構が設けられている。

【００２８】

上述の例では、アトマイザーと機械的ドレッシングの両者を同時に行うことを述べた。しかし、研磨面の洗浄手段であるアトマイザー、機械的ドレッシング、水ポリッシュ、ウォータジェットは、それら単独若しくは適宜組合せて研磨面の洗浄を行う。ここでいう機械的ドレッシングとは、図４に示される円板状のドレッサー１０－１０の下面周縁部にダイヤモンド粒子が電着された帯状の凸部が設けられた構造のダイヤモンドドレッサーが一般的である。機械的ドレッシングを行う場合は、研磨面の目立てと洗浄の両方ができる。ダイヤモンドドレッサーの他に、ナイロンブラシを植毛した構造のドレッサーもある。

【００２９】

水ポリッシュとは、図３のように研磨面１０－１ａ上に半導体基板Ｗを接触させたまま、研磨液供給ノズル１０－６から供給されるスラリーを純水に替え、純水供給下のもとで研磨することをいう。水ポリッシュの際には、トップリング１０－２の押圧力は、第１研磨工程、第２研磨工程に比べて小さくする。水ポリッシュをすることによって、研磨面上に残留した第１研磨工程及び第２研磨工程で使用した研磨液が純水に置換され、研磨面１０－１ａの洗浄が行われる。

【００３０】

図５は上記研磨テーブル１０－１の研磨面１０－１ａをウォータジェットを用いて洗浄する洗浄機構の構成例を示す図である。図示するように、ドレッシングユニット１０－１３を具備し、該ドレッシングユニット１０－１３は研磨テーブル１０－１の研磨面１０－１ａ上部に半径方向に沿って等間隔に配置された複数個（図では６個）のウォータジェットノズル１０－１３ｃを備えている。各ウォータジェットノズル１０－１３ｃは内部に流路１０－１３ｂを具備したウォータジェットノズルアーム１０－１３ａに固定されている。

【００３１】

ポンプ２３によって加圧された純水がチューブ２２を通ってウォータジェットノズル１０－１３ｃに供給され、該ウォータジェットノズル１０－１３ｃから研磨面１０－１ａに向かってウォータジェットが噴射される。ウォータジェットノズルアーム１０－１３ａの水圧は、所定の圧力に保たれるようにポンプ２３の制御部（図示せず）で調整されている。また、各ウォータジェットノズル１０－１３ｃは同一のノズルを使用し、各ノズルからのウォータジェットの噴射圧力及び速度は略一定となるようにする。そして、ウォータジェットの圧力はポンプ２３を制御することにより、５～３０ｋｇ／ｃｍ$^2$の範囲の所定圧力に保つことができる。

【００３２】

図９は上記第１～第３研磨工程までの流れと、該研磨工程で用いる砥粒及びスラリーの種類、トップリング押圧力、トップリング回転数の一例を示す図である。図示するように、第１研磨工程においては砥粒及びスラリーとしてシリカ及びＣｕ研磨用スラリーを用い、トップリング押圧力を４００ｇ／ｃｍ$^2$、トップリング回転数を７０ｒｐｍとする。続く第２研磨工程においては砥粒及びスラリーとしてシリカ及びＣｕ研磨用スラリーを用い、トップリング押圧力を２００ｇ／ｃｍ$^2$、トップリング回転数を７０ｒｐｍとする。Ｃｕめっき膜層１０６及び給電シード層１０７が除去されたかをエンドポイント測定で確認する。

【００３３】

エンドポイント測定でＣｕめっき膜層１０６及び給電シード層１０７の研磨除去が確認されたら、研磨面１０－１ａに残った、第１研磨工程及び第２研磨工程でのスラリーを上記水ポリッシュ、又はウォータジェット、又はアトマイザー、又はドレッサーにより除去洗浄し、第３研磨工程に移る。第３研磨工程においては砥粒及びスラリーとしてシリカ及びＴａ研磨用スラリーを用い、トップリング押圧力を２００ｇ／ｃｍ$^2$、トップリング回転数を５０ｒｐｍとする。

【００３４】

第３研磨工程のバリア層１０５の研磨のスラリーに用いられる砥粒は、第１研磨工程及び第２研磨工程のＣｕめっき膜層１０６や給電シード層１０７を研磨するときの研磨の砥

粒と同じものが望ましい。また、各研磨工程の研磨液、若しくはスラリーに加える薬液（酸化剤等）のｐＨも各工程で酸性側若しくはアルカリ性側のどちらかに寄っている。この様な研磨液を用いることにより、研磨面１０－１ａを構成するクロス上で第１研磨工程及び第２研磨工程で研磨面１０－１ａ上に残った残留物と第３研磨工程で用いる研磨液とが反応して化合物を作らないことが条件である。

【００３５】

実験では、両方にシリカの粒子を用いており、ケースとして両方ともアルカリのものと酸性のものどちらでも良い結果が得られた。第３研磨工程の膜厚終点検知には、膜厚が薄いので光学式の膜厚測定機が用いられ、バリア層１０５の残りを検知し、その検知信号を制御部２０に伝送する。なお、固定砥（砥粒を結合剤中に分散固定させたもの）を用いた研磨では、研磨液としてスラリーを用いず薬液若しくは純水を供給して研磨する。

【００３６】

この場合、第１、第２研磨工程で用いられる研磨液と第３研磨工程で用いられる研磨液は両者アルカリ若しくは両者酸性が好ましい。ｐＨ７に対して同じ側のｐＨを示す研磨液が望ましい。しかし、中性の研磨液を使う場合は、各工程で中性か若しくは中性とアルカリ、中性と酸性の組合せが考えられる。要は同一研磨テーブル上で酸性とアルカリ性の両方の研磨液を用いなければ良い。

【００３７】

なお、第１研磨工程及び第２研磨工程と、第３研磨工程で用いられる砥粒は、組成が同じであれば、粒径が異なるものでも問題はない。また、ここでは研磨液としてスラリー（砥粒を懸濁させた液体）を用いる例を示したが、スラリーに限定されない。例えば第３研磨工程では砥粒を含まない薬液だけで研磨をすることもあり、その場合は、第１研磨工程及び第２研磨工程と第３研磨工程では研磨液のｐＨだけが問題になる。即ち、一連の工程の研磨で、研磨液が酸性又はアルカリ性に統一されていればよい。

【００３８】

また、図示は省略するが、ポリッシング装置１０の研磨テーブル１０－１及びポリッシング装置１１の研磨テーブル１１－１の近傍に配置した膜厚測定機１０－４、１１－４を画像処理装置付き膜厚測定機とし、該膜厚測定機で測定した膜厚を半導体基板Ｗの加工記録として残したり、該研磨した半導体基板Ｗを次の工程に移送できるか否かの判定を行なうようにする。また、研磨終了したにもかかわらず所定の研磨量に達していない場合、再研磨を行なう。また、何らかの異常が発生し所定量を超えて研磨された場合は、不良品を増やさないように次の研磨を行なわないように装置を停止する。

【００３９】

上記のように、第１研磨工程から第３研磨工程までを、１つの研磨テーブル１０－１又は１１－１で行なうことができるので、研磨テーブルの個数が少なくてすみ、装置を小型化できると共に基板研磨のスループットを向上させることが可能となる。

【００４０】

研磨終了後、トップリング１０－２又は１１－２で半導体基板Ｗをプッシャー１０－５又は１１－５に戻し、第２ロボット７で該半導体基板Ｗを取り上げ第１洗浄機８又は９に入れ、第１次洗浄を行う。この時プッシャー１０－５又は１１－５にある半導体基板Ｗの表面、裏面に薬液を噴射しパーティクルを除去したり、付着しにくくすることもある。

【００４１】

第１洗浄機８又は９での第１次洗浄では半導体基板Ｗの表面及び裏面をスクラブ洗浄する。図６は第１洗浄機８の構成を示す図である。第１洗浄機８は図示するように、半導体基板Ｗが複数の基板回転用コロ８－１で挟持されて水平面内で回転するようになっている。該半導体基板Ｗの上下面に回転するＰＶＡスポンジロール８－２、８－２が当接するように配置されている。更に、該半導体基板Ｗの上下部には超音波振動器８－３を有する陽極イオン水ノズル８－４とＤＨＦノズル８－５が配置されている。半導体基板Ｗの表面には、主にパーティクル除去のために純水、界面活性材、キレート材、ｐＨ調整材が供給され、ＰＶＡスポンジロール８－２でスクラブ洗浄される。半導体基板Ｗの裏面には、ＤＨ

Ｆ等の強い薬液を噴射して拡散しているＣｕをエッチングしたり、又は拡散の問題がなければ、表面と同じ薬液を用いてＰＶＡスポンジロール等でスクラブ洗浄する。なお、第１洗浄機９も第１洗浄機８と同じ構成である。

【００４２】

上記第１洗浄機８又は９での洗浄後、第２ロボット７で半導体基板Ｗを取り上げ反転機５又は６に渡し、該半導体基板Ｗを反転させる。第１ロボット２で反転機５又は６から半導体基板を取り上げ第２洗浄機３又は４に入れ、第２次洗浄を行う。第２洗浄機３又は４も図示は省略するが、第１洗浄機８及び９と同様な構成となる。また、純水、界面活性材、キレート材、またｐＨ調整材を入れペンシルスポンジで表面を洗浄しても良い。その後スピンドライをかけて乾燥、その後第１ロボット２で半導体基板Ｗを取り上げる。

【００４３】

第１ロボット２は上記研磨テーブル１０－１、１１－１の近傍の膜厚測定機１０－４、１１－４で膜厚を測定している場合は、そのまま半導体基板Ｗをロードアンロード部１のアンロードポートに載置されているカセット１－１に戻す。多層膜測定を行なう場合は、乾燥状態での測定を行なう必要があるので、乾燥状態膜厚測定機１３で膜厚を測定する。そこで半導体基板の加工記録として残したり、次の工程に移すことができるか否かの判定を行なう。

【００４４】

図７は第２ロボット７の外観構成例を示す図である。図示するように、第２ロボット７には上下に二つのハンド７－１、７－１を有し、該ハンド７－１、７－１はそれぞれアーム７－２、７－２の先端に取り付けられ、旋回移動できるようになっている。そしてハンド７－１、７－１で半導体基板Ｗを掬い上げ（半導体基板Ｗを落とし込む）、所定の場所に移送することができるようになっている。

【００４５】

図８は第１ポリッシング装置１０に設けられ、研磨中の半導体基板Ｗの膜厚を測定する膜厚測定機の構成例を示す図である。図示するように、研磨テーブル１０－１内に渦電流式の膜厚測定機１０－１４と光学式の膜厚測定機１０－１５が設けられ、トップリング１０－２に保持された研磨中の半導体基板の研磨面の膜厚を測定するようになっている。

【００４６】

渦電流式の膜厚測定機１０－１４はセンサコイルに高周波電流を流して、半導体基板Ｗの導電性膜（Ｃｕめっき膜層１０６や給電シード層１０７）中に渦電流を発生させ、この渦電流が膜厚によって変化し、センサ回路との合成インピーダンスを監視することで膜厚を測定するものである。

【００４７】

また、光学式の膜厚測定機１０－１５は投光素子と受光素子を具備し，投光素子から半導体基板Ｗの被研磨面に光を照射し、該被研磨面からの反射光を受光するように構成されている。半導体基板Ｗの導電性膜（Ｃｕ膜）が所定厚の薄膜（膜厚５０ｎｍ以下）になってくると、投光素子から被研磨面に照射された光の一部が導電性膜を透過し、導電性膜の下層の酸化膜（$SiO_2$）から反射された反射光と、導電性膜の表面から反射された反射光との二種類の反射光が存在することになる。この二種類の反射光を受光素子で受光し処理することにより、膜厚を測定する。

【００４８】

【発明の効果】

以上、説明した様に各請求項に記載の発明によれば下記のような優れた効果が得られる。

【００４９】

渦電流センサは半導体基板のＣｕめっき膜層の膜厚を光学式センサが膜厚測定できる所定の膜厚になるまで測定し、光学式センサはＣｕめっき膜層の膜厚が該所定の膜厚以下になった時に測定することにより、半導体基板の膜厚に応じて渦電流センサと光学式センサを使用することができ、互いの特性を補い合うことができる。即ち、渦電流センサはＣｕ

めっき膜層の膜厚が薄くなると感度が悪くなるから、感度が悪くなった時に渦電流センサに代え、膜厚測定が可能となる光学式センサでCuめっき膜層の膜厚を測定するのである。これにより、同一の研磨テーブルで複数の研磨工程を経て研磨するので、研磨テーブルの個数が少なくて済み、装置の小型化ができると共に、精度よく研磨終点を検出できるから、基板研磨のスループットを向上するという優れた効果が得られる。

【図面の簡単な説明】

【図1】

図1（a）乃至（c）は半導体基板上に回路配線を形成する説明図である。

【図2】

本発明に係る基板研磨装置を具備する基板処理装置の平面構成例を示す図である。

【図3】

本発明に係る基板研磨装置のポリッシング装置の構成例を示す図である。

【図4】

本発明に係る基板研磨装置の研磨テーブルの研磨面洗浄機構の構成例を示す図である。

【図5】

本発明に係る基板研磨装置の研磨テーブルの研磨面洗浄機構の構成例を示す図である。

【図6】

本発明に係る基板研磨装置の第1洗浄機の構成例を示す図である。

【図7】

本発明に係る基板研磨装置の第2ロボットの外観構成例を示す図である。

【図8】

本発明に係る基板研磨装置の研磨中の基板膜厚を測定する膜厚測定装置の構成例を示す図である。

【図9】

本発明の研磨装置の研磨工程の流れと用いる砥粒及びスラリーの種類、トップリング押圧力、トップリング回転数の一例を示す図である。

【符号の説明】

| | |
|---|---|
| 1 | ロードアンロード部 |
| 2 | 第1ロボット |
| 3 | 第2洗浄機 |
| 4 | 第2洗浄機 |
| 5 | 反転機 |
| 6 | 反転機 |
| 7 | 第2ロボット |
| 8 | 第1洗浄機 |
| 9 | 第1洗浄機 |
| 10 | 第1ポリッシング装置 |
| 11 | 第2ポリッシング装置 |
| 13 | 乾燥状態膜厚測定機 |
| 14 | 窒素ガス供給源 |
| 15 | 純水供給源 |
| 16 | レギュレータ |
| 17 | レギュレータ |
| 18 | エアオペレータバルブ |
| 19 | エアオペレータバルブ |
| 20 | 制御部 |
| 22 | チューブ |
| 23 | ポンプ |

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**Notes:**
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 02:35:16 JST 07/04/2007
Dictionary: Last updated 05/18/2007 / Priority:

# Decision to Grant a Patent

Application number: Application for patent 2000-157007
Date of Drafting: Heisei 19(2007) January 29
Patent examiner: KOMATSU, Ryuichi 9524 3P00
Title of invention: Substrate polish equipment and the substrate polish method
The number of claims: 6
Applicant: EBARA CORPORATION
Representative: KUMAGAYA, Takashi (and 1 others)

This application is to be granted a patent as there is no reason for refusal.

Director General(p.p.) Director(p.p.) Examiner Assistant examiner Manager for Determination of Classification KANAZAWA, Toshio KOMATSU, Ryuichi KAWAMURA, Kenichi 8614 9524 9625

1. Distinction of Patent: Usually
2. Reference documents: **
3. Application of Patent Law, Section 30: Nothing
4. Change of Title of Invention: Nothing
5. International Patent Classification (IPC)

H01L 21/304 622S H01L 21/304 622R H01L 21/304 622X B24B 37/00 B, B24B 37/04 K, B24B 37/04 D

6. Deposition of Microorganism

7. Display of Purport that Retroactivity of Filing Date is not Accepted

Decision to Grant a Patent(Memorandum)

Application number: Application for patent 2000-157007

1. Technical Fields to Be Searched (IPC, DB Name)
H01L 21/304 B24B 37/00 B24B 37/04

2. Reference patent documents
JP,10-055989,A (JP, A) JP,08-285514,A (JP, A) JP,07-235520,A (JP, A) JP,2000-061815,A (JP, A) JP,2000-012543,A (JP, A)

3. Reference books and magazines

---

[Translation done.]

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. |
|---|---|---|---|---|
| 11/806,610 | 06/01/2007 | Takuya Ochiai | 132710 | 9229 |

7590 03/06/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| STRIMBU, GREGORY J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3634 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Repln. Ref: 03/06/2009 BPOWELL 0017183300
DAH:150461 Name/Number:11806610
FC: 9204 $500.00 CR

Adjustment date: 03/06/2009 BPOWELL
06/04/2007 SZEWDIE1 00000063 11806610
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Repln. Ref: 03/06/2003 BPOWELL 0017183300
DA#:150461 Name/Number:11806610
FC: 9204 $500.00 CR

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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. |
|---|---|---|---|---|
| 11/806,612 | 06/01/2007 | Jeffrey Holt Wright | 08350.6100-80000 | 9179 |

58982 7590 03/12/2010
CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON, DC 20001-4413

| EXAMINER |
|---|
| IP, SHIK LUEN PAUL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2837 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/12/2010 | 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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CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON DC 20001-4413

| | | |
|---|---|---|
| In re Application of: | : | |
| Jeffrey Holt Wright et al. | : | *SUA SPONTE* |
| Serial No.: 11/806,612 | : | DECISION WITHDRAWING HOLDING OF |
| Filed: June 1, 2007 | : | ABANDONMENT |
| Attorney Docket No.: **08350.6100-80000** | : | |

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed August 18, 2009, setting a three-month shortened statutory period for responding thereto. In the apparent failure to receive a response, the application was held abandoned. A Notice of Abandonment was mailed on February 26, 2009.

A review of the written record indicates that a timely Response including an amendment to the claims was filed February 18, 2009. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The response filed February 18, 2009 will be entered and forwarded to the examiner for appropriate action.

Inquiries related to this decision should be directed to Walter Benson, Supervisory Patent Examiner, at (571) 272-2227.

John Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,653 | 06/01/2007 | Isabelle Belanger-Basset | 14709.006.00 | 9317 |

7590 04/21/2010
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

| EXAMINER |
|---|
| SOUGH, HYUNG SUB |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2194 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/21/2010 | 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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/22/2010 NFARMER
06/04/2007 SZEWDIE1 00000008 11806653
02 FC:1111 -500.00 OP



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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,654 | 06/01/2007 | Wolfgang Kiener | 100729.59138US | 9350 |

7590 09/04/2008
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

| EXAMINER |
|---|
| SICONOLFI, ROBERT |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3683 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/04/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/04/2008 BPOWELL
06/04/2007 SZEWDIE1 00000007 11806654
02 FC:1111 -500.00 OP

Repln. Ref: 09/04/2008 BPOWELL 0011520800
DA#:182011 Name/Number:11523545
FC: 9204 $250.00 CR



FORM PET651G (Rev. 08/07)

Adjustment date: 09/04/2008 BPOWELL
06/04/2007 SZEWDIE1 00000007 11806654
02 FC:1111
-500.00 OP

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,657 | 06/01/2007 | Chong-Gi Hong | P58367 | 9339 |

7590 06/30/2010
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

| EXAMINER |
|---|
| MANDEVILLE, JASON M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/30/2010 | 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref: 06/29/2010 NFARMER 0015475530
DAW:024543 Name/Number:11806657
PC: 9304 0530.00 CR

Adjustment date: 06/29/2010 NFARMER
06/04/2007 SZEWDIE1 00000013 11806657
02 PC:1111 -500.00 CR



FORM PET651G (Rev. 08/07)

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**MORRISON & FOERSTER LLP**
**1650 TYSONS BOULEVARD**
**SUITE 400**
**MCLEAN VA 22102**

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OFFICE OF PETITIONS

In re Application of

**TABANKIN,** Ira J. et al.
Application No. 11/806,667
Filed: June 01, 2007
Attorney Docket No. **605032000220**

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 15, 2008.

The request is **NOT APPROVED.**

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GARY ROGERS**
**CATCHER, INC.**
**55 PRIVATE ROAD 906**
**GEORGETOWN, TX 78626**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**ATTN: MAQUITA WONG**
**THE HONG KONG POLYTECHNIC UNIVERSITY**
**SUITE 600, MAILBOX #119**
**1800 DIAGONAL ROAD**
**ALEXANDRIA VA 22314**

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SEP 30 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **SIU**, Kin Wai Michael | : | |
| Application No. 11/806,690 | : | DECISION ON PETITION |
| Filed: June 04, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **IP-333C** | : | FROM RECORD |
| | : | |

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 21, 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 Robert M. DeWitty, the sole attorney of record. Robert M. DeWitty has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kin Wai Michael Siu 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: **KIN WAI MICHAEL SIU**
**THE HONG KONG POLYTECHNIC UNIVERSITY**
**HUNG HOM**
**KOWLOON, HONG KONG**

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1800 DIAGONAL ROAD, SUITE 600/MAILBOX #119
ALEXANDRIA, VA 22314

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| | | |
|---|---|---|
| In re Application of | : | |
| SIU, Kin Wai Michael | : | |
| Application No. 11/806,692 | : | DECISION ON PETITION TO |
| Filed: June 4, 2007 | : | WITHDRAW FROM RECORD |
| Attorney Docket No. IP-402A | : | |

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 21, 2008.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIRECTORS OFFICE
OCT 24 2007
TECHNOLOGY CENTER 2800

**Mots Law, PLLC**
**1001 Pennsylvania Avenue, N.W.**
**South Wing, Suite 600**
**Washington, D.C. 20004**

| | | |
|---|---|---|
| **In re Application of** | : | **DECISION ON REQUEST TO** |
| **Tadao TODA *et. al.*** | : | **PARTICIPATE IN PATENT** |
| **Application No. 11806709** | : | **PROSECUTION HIGHWAY** |
| **Filed: June 4, 2007** | : | **PILOT PROGRAM AND PETITION** |
| **Attorney Docket No. MIY.009.0015.CN** | : | **TO MAKE SPECIAL UNDER** |
| **For: NITRIDE-BASED SEMICONDUCTOR DEVICE AND METHOD OF FABRICATING THE SAME** | : | **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 June 4, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

## 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, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) 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).

Conditions (1), (2), and (4) to (7) appear to have been met. However, the request to participate in the PPH pilot program and petition fail to meet condition (3) above.

Regarding the requirement of condition (3), Petitioner has not amended the U.S. claims to sufficiently correspond to the allowable/patentable claims in the JPO application. Claims will be considered to sufficiently correspond where, accounting for difference due to translations and claim format requirement ,the claims are of the same or similar scope.

A proper response is to amend claim 33 to include the limitations of claim 34, and to cancel claim 34, since claim 33 in the instant application has no corresponding allowed/patented claim in the JPO application.

## CONCLUSION

For the above reasons, the "Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the JPO and the USPTO" filed June 4, 2007 is **DISMISSED** without prejudice.

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 Christine Oda at 571-273-1602.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

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.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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**Mots Law, PLLC**
**1001 Pennsylvania Avenue, N.W.**
**South Wing, Suite 600**
**Washington, D.C. 20004**

NOV 21 2007

| | | |
|---|---|---|
| **In re Application of** | : | **DECISION ON REQUEST TO** |
| **Tadao TODA *et. al.*** | : | **PARTICIPATE IN PATENT** |
| **Application No. 11806709** | : | **PROSECUTION HIGHWAY** |
| **Filed: June 4, 2007** | : | **PILOT PROGRAM AND PETITION** |
| **Attorney Docket No. MIY.009.0015.CN** | : | **TO MAKE SPECIAL UNDER** |
| **For: NITRIDE-BASED SEMICONDUCTOR DEVICE AND METHOD OF FABRICATING THE SAME** | : | **37 CFR 1.102(d)** |

This is a decision in response to the "CLAIM AMENDMENT FOR REQEUST TO PARTICIPATE IN THE PATENT PROSECUTION HIGHWAY PILOT PROGRAM" filed November 5, 2007. The response is being treated as a petition requesting reconsideration of the previous decision dated October 24, 2007, dismissing the request to participate in the Patent Prosecution Highway (PPH) pilot program and Petition to Make Special under 37 CFR 1.102(d) filed March 20, 2007.

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 must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) 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 petitioner has amended the U.S. claims to sufficiently correspond to the allowable/patentable claims in the JPO application, by amending claim 33 and canceling claim 34.

## 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.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

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.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Tseng-Lu Chien | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618150 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/806,711 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : 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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KENYON & KENYON
1500 K. Street, N.W.
Washington, DC 20005-1257

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kunihiko Hayashi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647900 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/806,765 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **174** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of
Tsuneo Kimura et al.
Application No. 11/806,775
Filed: June 4, 2007
Attorney Docket No.: 0171-1363PUS1
Title: ROOM TEMPERATURE-CURABLE ORGANOPOLYSILOXANE COMPOSITION

DECISION ON PETITION UNDER 37 C.F.R. §1.59(b)

This is a decision on the petition filed October 3, 2007, pursuant to 37 C.F.R. § 1.59(b), requesting the expungement of a preveniently submitted six-page information disclosure statement (IDS).

The petition is **GRANTED-IN-PART.**

The application was filed on June 4, 2007, along with an IDS. On September 6, 2007, Petitioner submitted a Supplemental IDS. Petitioner has set forth that this supplemental IDS was erroneously filed in the present application, that it is not relevant to the same, and has requested the expungement thereof.

37 C.F.R. §1.59 sets forth, *in toto*:

> (a)
> (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
> (2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
> (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.
>
> [48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003; para. (a)(1) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

The matter Petitioner wishes to have expunged does not form part of the original disclosure. Petitioner has included the $200 fee, and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic document that contains these six pages has been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

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]. All other inquiries

---

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.

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Crina Silvia Suciu | : | |
| Application No. 11/806,798 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | |
| Attorney Docket No. 966917.00015 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008 to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed July 3, 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 4, 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 reply, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1745 for appropriate action by the Examiner in the normal course of business on the reply received April 10, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,829 | 06/04/2007 | Yasufumi Suwabe | 132704 | 1346 |

25944 7590 09/21/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| LESTER, EVELYN A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2873 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/21/2009 | 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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**P.O. BOX 320850**
**ALEXANDRIA, VA 22320-4850**

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|---|---|
| **In re Application of** | **: DECISION ON REQUEST TO** |
| **Yasufumi SUWABE et al.** | **: PARTICIPATE IN THE PATENT** |
| **Application No.: 11/806,829** | **: PROSECUTION HIGHWAY** |
| **Filed: 04 June 2007** | **: PROGRAM AND PETITION** |
| **Attorney Docket No.: 132704** | **: TO MAKE SPECIAL UNDER** |
| **For: DISPLAY MEDIUM, DISPLAY DEVICE AND DISPLAY METHOD** | **: 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 22 June 2009 to make the above-identified application special.

The request and petition are **DENIED**.

## Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO 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 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;
    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 fails to satisfy condition **4** above: examination of the U.S. application has not begun. In fact, a non-final rejection was mailed on June 25, 2009. This application will remain in its regular status and prosecution shall continue in its regular course.
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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Washington DC 20006

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| In re Application of: | : | |
| ZHANG, Weidong, et al. | : | DECISION ON PETITION |
| Application No.: 11/806,874 | : | (37 CFR 1.78(a)(3)) |
| Filing Date: June 05, 2007 | : | |
| Attorney Docket No.: YGZhang_006 | : | |
| For: METHODS FOR PREPARING | : | |
| DEHYDROCAVIDINE ... AND | : | |
| MEDICINAL COMPOSITION | : | |
| CONTAINING THEM | : | |

This decision is issued in response to the "Petition Pursuant To 37 C.F.R. §1.78(a)(3)" filed August 28, 2009. Applicant has submitted the required petition fee.

## BACKGROUND

On June 05, 2007, applicant filed materials to initiate the present U.S. non-provisional application. The materials were assigned U.S. application number 11/806,874 and were treated as a new application filed under 35 U.S.C. 111(a).

The materials filed by applicant on June 05, 2007 included a "Utility Patent Application Transmittal" form that specifically indicates that it is for use "[o]nly for new non-provisional applications under 37 CFR 1.53(b)" and a declaration containing a claim of foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f) or 365(b) directed to PCT/CN2005/001755.

On August 28, 2009, applicant filed the petition considered herein.

## DISCUSSION

### A. The application was properly treated as a filing under 35 U.S.C. 111(a)

The present petition includes a request to treat the application as the U.S. national stage filed under 35 U.S.C. 371 of PCT/CN2005/001755; however, the materials filed by applicant to initiate the present application did not identify the submission as a national stage filing under 35 U.S.C. 371. 37 CFR 1.495(g) states the following regarding national stage submissions:

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, MPEP section 1893.03(a) states that if "there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." Moreover, MPEP section 1893.03(a) specifically states that "[a] conflicting instruction will be present, for example, where applicant includes in the initial submission under 35 U.S.C. 371, a "Utility Patent Application Transmittal" (Form PTO/SB/05)."

In the present case, applicants original application materials were not identified as a national stage application filed under 35 U.S.C. 371. Rather, applicants submitted the application under a "Utility Patent Application Transmittal" that specifically identified the submission as an original utility patent application filed under 37 CFR 1.53(b). As noted above, the MPEP expressly states that the use of such form constitutes a "conflicting instruction" that will result in the application being treated as a filing under 35 U.S.C. 111(a). Moreover, the claim of foreign priority under 35 U.S.C. 119(a)-(d) or (f) or 365(b) directed to the international application contained in the declaration is not consistent with the filing of a national stage application.

Based on the above, the present application is properly treated as an application filed under 35 U.S.C. 111(a). Applicants request that the application be treated as a national stage application filed under 35 U.S.C. 371 is therefore appropriately dismissed.

**B. <u>Petition Under 37 CFR 1.78(a)</u>**

The present petition also requests that an unintentionally delayed claim under 35 U.S.C. 120, 121 or 365(c) be added to the present application.

37 CFR 1.78(a)(3) applies where, as here, an applicant seeks to add a delayed claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States. Accordingly, the present petition is properly considered under 37 CFR 1.78(a)(3).

A petition for acceptance of a delayed claim for 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) .

The present non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A grantable 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 37 CFR 1.17; 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 present petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any non-provisional application claiming the benefit of a prior-filed international application must be amended to contain, or accompanied by an DS containing, a reference to the prior-filed international, identifying it by "international application number and international filing date and indicating the relationship of the applications." As set forth in MPEP section 201.11(III)(A), 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.

Here, applicants have not filed an amendment adding the required reference to the first line of the specification. Rather, applicants filed an ADS with the present petition. However, the continuity reference contained in the ADS filed with the petition is unacceptable. Specifically, the ADS does not properly set forth the relationship between the present application and the international application (i.e., continuation, continuation-in-part, or divisional).[1]

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and an amendment or ADS which properly sets forth the relationship of the present application to the prior-filed international application is required. Applicant is advised that an amendment or ADS filed after final rejection or allowance is not entered as a matter of right and must be filed in compliance with 37 CFR 1.116 or 1.312, respectively (see MPEP section 201.11, Rev. 5, Aug. 2006, page 200-67, bottom right hand column).

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

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

[1] More specifically, the domestic priority section of the ADS improperly lists the international application number in the "Application Number" section, where the application number for the present application should be listed, it sets forth "371 of international" in the "Continuity Type" section, rather than continuation, continuation-in-part, or divisional, and it leaves blank the "Prior Application Number" section, where the international application number should be listed.

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Electronically: Via EFS-Web

Any questions concerning this matter may be directed to Richard Ross at (571) 272-3296.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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Washington DC 20006

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| In re Application of | : |
| ZHANG, Weidong, et al. | : DECISION ON RENEWED |
| Application No. 11/806,874 | : PETITION UNDER 37 CFR 1.78(a)(3) |
| Filed: June 05, 2007 | : AND UNDER 37 CFR 1.55(c) |
| Attorney Docket No. YGZhang_006 | : |

This decision is issued in response to the "Renewed Petition Pursuant To 37 CFR §1.78(a)(3)" filed November 01, 2009, treated herein under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c). The petition requests acceptance of an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of a prior-filed PCT application, and under 35 U.S.C. 119(a)-(d) and 365(b) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed supplemental application data sheet (ADS).

For the reasons discussed below, the petitions are **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT and foreign applications is submitted after expiration of the periods specified in 37 CFR 1.78(a)(2)(ii) and 1.55(a)(1). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.55(c).

***As to the benefit claim under 37 CFR 1.78(a)(3):***

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

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

The present petition fails to satisfy items (1) and (3), above.

With respect to item (1), the present petition was accompanied by an application data sheet (ADS) containing references to the prior-filed international and foreign applications. The specific references to the prior-filed applications contained in the ADS are in proper form; however, the ADS itself is not in acceptable form. Specifically, the ADS was not submitted in compliance with the rules set forth in 37 CFR 1.76(c)(2), which expressly requires that any supplemental ADS be titled "Supplemental Application Data Sheet" and "must identify the information that is being changed, preferably with underlining for insertions, and strike-through or brackets for text removed." The ADS filed with the present petition does not comply with 37 CFR 1.76(c)(2) in that it is not tiled "Supplemental Application Data Sheet" and it does not identify the information that is being changed from the prior-filed ADS. A revised supplemental ADS that complies with the requirements of 37 CFR 1.76(c)(2) and includes all necessary information, including the required references to the prior-filed international and foreign applications, is required before item (1) of a grantable petition is considered satisfied.

With respect to item (3), the present petition includes a statement that "the entire delay between the date of filing the present application and the date the claim of the present application being a national stage application pursuant under 35 U.S.C. 371 was filed was unintentional." This statement is not sufficient in the present application, which is not a national stage application under 35 U.S.C. 371. Applicants must provide the statement required under 37 CFR 1.78(a)(3)(iii), that is, a statement that "the entire delay between the date the benefit claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional." Until such statement is provided, item (3) of a grantable petition is not considered satisfied.

***As to the benefit claim under 37 CFR 1.55(c):***

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The present petition fails to satisfy items (2) and (4), above.

With respect to item (2), as discussed in detail above, the ADS filed with the present petition (which contains the required reference to the foreign priority application) is not in acceptable form. A revised supplemental ADS that complies with the requirements of 37 CFR 1.76(c)(2) and includes all necessary information, including the required references to the prior-filed applications is required before item (2) of a grantable petition is considered satisfied.

With respect to item (4), as also discussed above, the statement of unintentional delay included in the present petition does not satisfy the requirements of the applicable rule. Applicants must provide the statement required under 37 CFR 1.55(c)(1)(iii), that is, a statement that "the entire delay between the date the benefit claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional." Until such statement is provided, item (4) of a grantable petition is not considered satisfied.

Based on the above, the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 365(c) to the prior-filed PCT application and under 35 U.S.C. 119(a)-(d) and 365(b) for the benefit of a prior-filed foreign application fails to satisfy all the conditions of a grantable petition. The petition is therefore appropriately dismissed.

Any renewed petition filed herein must include the materials required to satisfy the outstanding elements of a grantable petition, as discussed above, that is: (1) a revised supplemental ADS that includes all necessary information, including the required references to the prior-filed applications, and complies with the specific requirements for a supplemental ADS set forth in 37 CFR 1.76(c)(2); and (2) the required statement that "the entire delay between the date the benefit claims were due under 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.55(a)(1) and the date the claims were filed was unintentional."

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Electronic Via EFS-Web

Any questions concerning this matter may be directed to Richard Ross at (571) 272-3296.

Bryan Lin

Bryan Lin
Legal Examiner
Office of Petitions and PCT Legal Administration

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

2 4 FEB 2010

IPFortune LLC
1629 K Street N.W.
Suite 300
Washington DC 20006

| | |
|---|---|
| In re Application of | : |
| ZHANG, Weidong, et al. | : DECISION ON SECOND RENEWED |
| Application No. 11/806,874 | : PETITION UNDER 37 CFR 1.78(a)(3) |
| Filed: June 05, 2007 | : AND UNDER 37 CFR 1.55(c) |
| Attorney Docket No. YGZhang_006 | : |

This decision is issued in response to the "Second Renewed Petition Pursuant To 37 CFR §1.78(a)(3)" filed February 17, 2010, treated herein under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c). The petition requests acceptance of an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of a prior-filed PCT application, and under 35 U.S.C. 119(a)-(d) and 365(b) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed supplemental application data sheet (ADS).

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT and foreign applications is submitted after expiration of the periods specified in 37 CFR 1.78(a)(2)(ii) and 1.55(a)(1). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.55(c).

***As to the benefit claim under 37 CFR 1.78(a)(3):***

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a proper reference identifying the present application as a continuation of the prior-filed

PCT application has been included in the supplemental ADS filed with the present petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has previously been submitted; and (3) the petition contains an acceptable 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 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

***As to the benefit claim under 37 CFR 1.55(c):***

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on June 07, 2009, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of December 29, 2004, which is the filing date of the foreign application to which benefit is claimed. The supplemental ADS filed with the present renewed petition identifies the foreign application for which priority is claimed by application number, country and filing date. As noted above, applicants have paid the required surcharge. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(a)-(d) and 365(b) is appropriately granted.

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C. 119(a)-(d) and 365(b) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.***

Any inquiries concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being returned to Technology Center GAU-1625 for further consideration in accordance with this decision.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration and Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,908 | 06/05/2007 | Soo-Ik Jung | 52710 | 1467 |

7590 02/18/2009
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

| EXAMINER |
|---|
| MAUNG, NAY AUNG |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2618 | |

| 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.

Betty Powell

Patent Publication Branch
Office of Data Management

```
Adjustment date: 02/19/2009  BPOWELL
06/06/2007 MAHMED1  00000033 11806908
02 FC:1111                    -500.00 OP
04 FC:1201                    -200.00 OP
05 FC:1202                    -550.00 OP
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Refund Ref:
02/19/2009              0030066823
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Credit Card Refund Total:      $700.00

Am Exp..: XXXXXXXXXXX1001
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FORM PET651G (Rev. 08/07)

Repln. Ref: 02/19/2009 BPOWELL 0015370300
DA#:102220 Name/Number:11806908
FC: 9204 $1250.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/806,925 | 06/05/2007 | Yoichi Onishi | 10517-373 | 1982 |

7590 11/04/2008
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

| EXAMINER |
|---|
| LEUNG, KA CHUN A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3741 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/04/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/04/2008 NFARMER
07/03/2007 AGOITOM 00000013 110600 11806925
02 FC:2111 250.00 CR



FORM PET651G (Rev. 08/07)

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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JUN 0 5 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,458,625 | : | |
| Issue Date: December 2, 2008 | : | |
| Application No. 11/806,934 | : | ON PETITION |
| Filed: June 5, 2007 | : | |
| Attorney Docket No. 0042-0565PUS1 | : | |

This is a decision on the petition under 37 CFR 1.183 to Change the Assignee's Name filed April 8, 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**.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition has been charged to petitioner's deposit account.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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HANIFY & KING PROFESSIONAL CORPORATION
1055 THOMAS JEFFERSON STREET, NW
SUITE 400
WASHINGTON, DC 20007

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MAR 19 2010

| | |
|---|---|
| In re Application of<br>Shinji Ohishi, et al.<br>Application No. 11/806,965<br>Filed: June 5, 2007<br>Attorney Docket No. 5256-033-US01 | DECISION GRANTING PETITION<br>UNDER 37 CFR 1.313(c)(2) |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2010 and supplemented 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 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries regarding 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 2472 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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ACCENTURE, LLP
C/O HOGAN & HARTSON, LLP (IPGROUP)
555 13TH STREET NW, SUITE 600E
WASHINGTON DC 20004

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JAN 2 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Baldwin et al. | : | |
| Application No. 11/806984 | : | DECISION GRANTING |
| Filing or 371(c) Date: 06/05/2007 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| PERFORMANCE-BASED LOGISTICS | : | |
| FOR AEROSPACE AND DEFENSE | : | |
| PROGRAMS | : | |

This is in response to a"Petition Under 37 C.F.R 1.47", filed June 18, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The petition is properly treated under 37 CFR 1.47(a).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, David P.West, refuses to join in the application.

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

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. DAVID P. WEST II
270 BROWNS CROSSING DRIVE
FAYETVILLE, GA 30215

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JAN 2 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Baldwin et al. | : | |
| Application No. 11/806984 | : | LETTER |
| Filing or 371(c) Date: 06/05/2007 | : | |
| Title of Invention: | : | |
| PERFORMANCE-BASED LOGISTICS | : | |
| FOR AEROSPACE AND DEFENSE | : | |
| PROGRAMS | : | |

Dear Mr. West:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: ACCENTURE, LLP
C/O HOGAN & HARTSON, LLP (IPGROUP)
555 13TH STREET NW, SUITE 600E
WASHINGTON DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

COPY MAILED
MAR 04 2010

| | | |
|---|---|---|
| In re Patent No. 7,499,151 | : | |
| Issue Date: March 3, 2009 | : | |
| Application No. 11/806,986 | : | DECISION ON PETITION |
| Filed: June 5, 2007 | : | |
| Attorney Docket No. MAC 304-25B | : | |

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R . 1.323, filed July 8, 2009, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the omitted second assignee. A completed Certificate of Correction Form (PTO/SB/44) has been submitted with petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to add the omitted second assignee's name on the previously submitted PTOL-85B and that such error was inadvertently omitted on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the name of the second assignee identified thereon from

"University of Ottawa, Ottawa (CA)"

to:

-- 1)University of Ottawa, Ottawa (CA); 2) Oz Optics Ltd., Nepean (CA)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that was submitted with petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,499,151.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**Covington & Burling, LLP**
**Attn: Patent Docketing**
**1201 Pennsylvania Avenue, NW**
**Washington, DC 20004-2401**

COPY MAILED

JUN 0 9 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Jack Phillip Abraham | : | |
| Application No. 11/806,989 | : | DECISION ON PETITION |
| Filed: June 5, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 031336.0101-US00 | : | FROM RECORD |
| | : | |

This is a decision on the request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 28, 2008.

The request is **APPROVED**.

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

The request was signed by Gregory S. Discher on behalf of all attorneys/agents associated with customer number 26853. All attorneys/agents associated with customer number 26803 have been withdrawn.

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

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jack P. Abraham
246 Hawthorne Avenue
Palo Alto, CA 94301

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/806,989 | 06/05/2007 | Jack Phillip Abraham | 031336.0101-US00 |

**CONFIRMATION NO. 1645**

**POWER OF ATTORNEY NOTICE**

26853
COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2401

*OC000000030365344*

Date Mailed: 06/09/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/28/2008.

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

/kainabinet/

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

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**BIRCH STEWART KOLASCH & BIRCH**
**PO BOX 747**
**FALLS CHURCH VA 22040-0747**

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DEC 18 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Peter JENSEN | : | |
| Application No. 11/806,999 | : | DECISION ON PETITION |
| Filed: June 05, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **5043-0102PUS1** | : | FROM RECORD |

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, 2009.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that act (2) noted in the above-identified certifications have been performed.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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**PO BOX 747**
**FALLS CHURCH VA 22040-0747**

| | | |
|---|---|---|
| In re Application of | : | |
| JENSEN, Peter | : | |
| Application No. 11/806,999 | : | DECISION ON PETITION |
| Filed: June 05, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **5043-0102PUS1** | : | FROM RECORD |
| | : | |

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 29, 2009.

The request is **APPROVED**.

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

The request was signed by Michael Mutter on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 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 Peter Jensen at the address indicated below. There is an outstanding Office action mailed July 02, 2009 that requires a reply from the applicant.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PETER A. JENSEN**
**C/O HM JENSEN**
**738 LAKE TERRACE CIRCLE**
**DAVIS CA 95616**

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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SEP 14 2007

**OFFICE OF PETITIONS**

In re Application of
Qu et al.
Application No. 11/807,007
Filed: May 29, 2007
Attorney Docket No. 940630-020019

DECISION GRANTING PETITION

This is a decision on the petition, filed July 27, 2007, requesting that the above-identified application be accorded a filing date of May 25, 2007, rather than the presently accorded date of May 29, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on May 25, 2007. In support, the petition is accompanied by a copy of Express Mail receipt No. EO934523425US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of May 25, 2007.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on May 25, 2007.

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

The address provided on the petition differs from the correspondence address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **May 25, 2007** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed the undersigned at (571) 272-3215

Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Cc: Jones Day
One Mellon Center
500 Grant Street, Suite 3100
Pittsburgh, PA 15219

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**MARCUS G THEODORE, PC**
**466 SOUTH 500 EAST**
**SALT LAKE CITY UT 84102**

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AUG 16 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Richard W. Schanz et al. | : | |
| Application No. 11/807,052 | : | DECISION ON PETITION |
| Filed: May 25, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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.

J. BENNETT MULLINAX, LLC
P. O. BOX 26029
GREENVILLE SC 29616-1029

**MAILED**

APR 19 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Hull et al. | : | DECISION ON PETITION |
| Application No. 11/807,071 | : | |
| Filed: May 25, 2007 | : | |
| Attorney Docket No. DCH-1 | : | |

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 25, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed June 10, 2009. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned September 11, 2009. A courtesy Notice of Abandonment was mailed on February 25, 2010.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3742 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed February 25, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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**RUSSELL H. WALKER**
**WALKER MCKENZIE & WALKER PC**
**6363 POPLAR AVENUE, SUITE 434**
**MEMPHIS, TN 38119-4896**

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JUN 29 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **EDWARDS**, Richard H. | : | |
| Application No. 11/807,074 | : | DECISION ON PETITION |
| Filed: May 25, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **A7,030** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the birth certificate and declaration of inventor Richard H. Edwards, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3746 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**LAW OFFICES OF DANIEL L. DAWES**
**5200 WARNER BLVD, STE. 106**
**HUNTINGTON BEACH CA 92649**

**COPY MAILED**

DEC 2 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **WALKER,** Harold R. | : | |
| Application No. 11/807,077 | : | DECISION ON PETITION |
| Filed: May 24, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **WAL2.PAU.02.A** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 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 to withdraw less than all attorneys appointed by customer number XXXX 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY, UT 84102

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JUL 06 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Richard W. Schanz | : | |
| Application No. 11/807,090 | : | DECISION ON PETITION |
| Filed: May 25, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

9/21/09

Patent No. :7462738
Inventor(s) :Hedvati et al.
Issued : 12/9/2008
Title : PROCESSES FOR THE PREPARATION OF R-(+)-3-3(CARBAMOYL METHLHEXANOIC ACID AND SALTS THEREOF
Attydoc ./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 claims 20, 44, 64, 75,& 77 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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

HR

2 1 SEP 2009

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

| | |
|---|---|
| In re Application of | : |
| KORSTANJE | :DECISION ON PETITION |
| Application No.: 11/807,109 | :UNDER 37 CFR 1.78(a)(3) |
| Filed: May 25, 2007 | : |
| Attorney Docket No.: ALG10220P00200US | : |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

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 PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

(1) the 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 comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. ---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. ---, 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 Application. The amendment filed July 15, 2009 fails to state the relationship of Application No. PCT/NL2005/000818 to the instant application.

With regard to item (3), it is satisfied in that the statement contained in the petition that "the entire delay between the date the claim was due under paragraph(d)(4) of 37 CFR § 1.78 and the date the claim was filed was unintentional" is construed as 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. If this interpretation is incorrect, petitioner is required to notify the Office immediately.

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 (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Daniel Stemmer at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Houston IP Department
JACKSON WALKER L.L.P.
1401 McKinney St.
Suite 1900
Houston, TX 77010

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : B. Calvin Leverett | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614131 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/807,126 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/25/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **355** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/807,242 | 05/25/2007 | Hans-Peter Zimmermann | 20040782-02 | 4664 |

7590 12/04/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER |
|---|
| CHAUDRY, ATIF H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3753 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/04/2009 | 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



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES CA 90013-1024**

COPY MAILED
MAR 12 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Bob Tang | : | DECISION ON PETITION |
| Application No. 11/807,265 | : | TO WITHDRAW |
| Filed: May 25, 2007 | : | FROM RECORD |
| Attorney Docket No. 627612000100 | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 9, 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.*

Petitioner has not completed the change of correspondence address portion of form PTO/SB/83. Therefore, since the petition lacks the name and address of the first inventor or the assignee of record, as explained above, the change of correspondence address is considered improper. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed November 16, 2009 that requires a reply.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert A. Saltzberg
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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**BENJAMIN EDLAVITCH**
**300 WEST ADAMS STREET, SUITE 505**
**CHICAGO, IL 60606**

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DEC 0 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sean Shebby | : | DECISION ON PETITION |
| Application No. 11/807,276 | : | TO WITHDRAW |
| Filed: May 25, 2007 | : | FROM RECORD |
| Attorney Docket No. 101-0001 | : | |

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 **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 Benjamin Edlavitch on behalf of himself as attorney of record.

All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed July 7, 2009 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sean Shebby
10 College Terrace
San Francisco CA 94112

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DIW Apr-09

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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APR 21 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Penn et al. | : | |
| Application Number: 11/807282 | : | DECISION ON PETITION |
| Filing Date: 05/25/2007 | : | |
| Attorney Docket Number: CCF-7019-1 | : | |

This is a decision on the petition filed on March 9, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on December 1, 2008, for failure to file a timely submit a proper reply to the final Office action mailed on May 30, 2008, which set a three (3) month shortened statutory period for reply. On December 1, 2008, an amendment after final rejection was filed, accompanied by a three (3) month extension of time. On December 12, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the proposed reply failed to place the application in condition for

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

allowance. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE), and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 1633 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 18 2008

**Dennis B. Haase**
**P.O. Box 6206**
**Hot Springs, AR 71902-6206**

| | | |
|---|---|---|
| In re Application of | : | |
| Edward H. Horn | : | |
| Application No. 11/807,308 | : | DECISION ON PETITION |
| Filed: May 29, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1837.04 | : | 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 attorney of record on behalf of 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 3634 action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OCT 28 2009

OFFICE OF PETITIONS

SEPEHR KHASHAEI
1121 4TH AVENUE, EAST
WEST FARGO, ND 58078

| | | |
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| In re Application of | : | |
| Sepehr Khashaei | : | |
| Application No. 11/807,364 | : | DECISION ON PETITION |
| Filed: May 29,2007 | : | |
| Attorney Docket No. N/A | : | |

This is a decision on the petition, filed June 22, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of June 28, 2008, which set a Three (3) month shortened statutory period for reply. A reply was due on or before November 29, 2008.

Petitioner states that a reply was in fact timely filed on November 25, 2008. A review of the record has shown that this reply was received and is of record. In the Notice of Abandonment, mailed April 15, 2009, the examiner indicated that the November 25, 2008 reply was not a bona fide attempt at a proper reply to the non-final rejection of July 28, 2008 since the reply allegedly did not include a section explaining how the amendment has overcome the rejection. However, change number "7" discussed in the letter by the *pro-se* inventor that accompanied the November 25, 2008 reply stated that "the claim section is completely changed to conform to what you [the examiner] have requested." This statement, among others, shows that the November 25, 2008 reply was a bona fide attempt by the *pro-se* inventor to properly reply to the non-final rejection. Therefore, the holding of abandonment was not proper. In the event that procedural deficiencies in the reply are found, such as omissions that render the amendment non-compliant with appropriate regulations, applicant must be given notice of those deficiencies and an opportunity to correct them.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 2841 for appropriate action in the normal course of business on the reply received November 25, 2008, which was re-submitted with the petition.

for David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAY 2 3 2008

**OFFICE OF PETITIONS**

JAMES D. (LAMMERS) KURTZ
N7401 RACETRACK ROAD
PLYMOUTH, WI 53073

In re Application of :
James De Ly Le Kurtz :
Application No. 11/807,365 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No.

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

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

The above-identified application became abandoned for failure to reply to the Notice to File Corrected Application Papers mailed July 9, 2007, which set a shortened period for reply of two (2) months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 10, 2007. A Notice of Abandonment was mailed on March 21, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1) and (2).

**The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.**

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

**The standard**

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

**Application of the standard to the current facts and circumstances**

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the Notice of Non-Compliant Amendment was not received.

With regard to item (1), is noted that a proper reply to the Notice to File Corrected Application Papers did not accompany the petition. A copy of the Notice to File Corrected Application Papers mailed July 9, 2007, is enclosed for petitioner's convenience. Any renewed petition filed or petition under 37 CFR 1.137(b) must be accompanied by a proper response to the Notice to File Corrected Application Papers.

With regard to item (2) above, the petition was not accompanied by the petition fee of $255.00 (small entity). The renewed petition must be accompanied by the petition fee of $255.00 in order to be considered grantable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy— Notice to File Corrected Application Papers mailed July 9, 2007
Form PTO/SB/64

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 | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/807,365 | 05/29/2007 | James De Ly le Kurtz | |

**CONFIRMATION NO. 5472**

JAMES D. (LAMMERS) KURTZ
N7401 RACETRACK ROAD
PLYMOUTH, WI 53073

COPY

**FORMALITIES LETTER**

Date Mailed: 07/09/2007

# NOTICE TO FILE CORRECTED APPLICATION PAPERS

## *Filing Date Granted*

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The substitute specification must be accompanied by a marked up copy as set forth in 37 CFR 1.125(c) and a statement that the specification contains no new matter (see 37 CFR 1.125(b)). The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
    - The line spacing on the specification, claims, or abstract is not 1½ or double spaced (see 37 CFR 1.52(b)).
- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
    - More than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic numeral (1, 2, etc.) or an Arabic numeral and capital letter in the English alphabet (A, B, etc.)(see 37 CFR 1.84(u)(1)). See Figure(s) all. A brief description of the several views of the drawings (see 37 CFR 1.74) should be added or amended to correspond to the corrected numbering of the figures. See also 37 CFR 1.77(b)(7).
    - The drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper, which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e)). See Figure(s) all.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents

P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

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***If you are not using EFS-Web to submit your reply, you must include a copy of this notice.***

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
PART 3 - OFFICE COPY

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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



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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

**WARNING:**

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

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |
| Address | Telephone Number |
| Address | |

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

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

I hereby certify that this correspondence is being:

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

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

| | |
|---|---|
| Date | Signature |
| | Typed or printed name of person signing certificate |

# Privacy Act Statement

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

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

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

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Casimir Jones, S.C.
440 Science Drive
Suite 203
Madison WI 53711

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| In re Application of | : | |
| James de Ly Le Kurtz | : | |
| Application No.: 11/807,365 | : | ON PETITION |
| Filed: May 29, 2007 | : | |
| Attorney Docket No. **LAMM-30581/US-1/ORD** | : | |

This is in response to the petition under 37 CFR 1.137(b) filed July 18, 2008.

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

This application became abandoned on September 10, 2007, for failure to file a timely reply to the Notice to File Corrected Application Papers mailed July 9, 2007. The notice set forth an extendable period for reply of two months from its mailing date. A response was not received and the application became abandoned on September 10, 2007 . A Notice of Abandonment was mailed on March 21, 2008.

The substitute specification and replacement drawings filed July 18, 2008, are noted.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Casimir Jones, S.C.**
**440 Science Drive**
**Suite 203**
**Madison, WI 53711**

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AUG 14 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| James D. (Lammers) Kurtz | : | |
| Application No. 11/807,365 | : | DECISION ON PETITION |
| Filed: May 29, 2007 | : | TO WITHDRAW |
| Attorney Docket No. LAMM-30581/US-1/ORD | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 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 Robert A. Goetz on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor James D. Lammers Kurtz at the address indicated below.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **James D. Lammers Kurtz**
**c/o Janet Lammers**
**326 Dewey Lane**
**Plymouth, WI 53073**

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 |
|---|---|---|---|
| 11/807,365 | 05/29/2007 | James D. (Lammers) Kurtz | LAMM-30581/US-1/ORD |

**CONFIRMATION NO. 5472**

**POWER OF ATTORNEY NOTICE**

*OC000000037369003*

72960
Casimir Jones, S.C.
440 Science Drive
Suite 203
Madison, WI 53711

Date Mailed: 08/14/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/12/2009.

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

/tswilliams/

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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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Paper No.

THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 350
SANDY UT 84070

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NOV 20 2007
OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of Crag C. Binks and Robert L. Sasser<br>Application No. 11/807,373<br>Filed: May 25, 2007<br>Attorney Docket Number: 02276-25410.NP<br>Title: FLEXIBLE BEVERAGE CONTAINER | DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.47(A) |

This is in response to the petition under 37 C.F.R. § 1.47(a)[1], filed September 27, 2007.

This petition pursuant to Rule § 1.47(a) is **DISMISSED**.

On May 25, 2007, the application was filed, identifying Crag C. Binks and Robert L. Sasser as joint inventors. The application

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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.

was deposited without an executed declaration. On June 26, 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 Mr. Binks, the fee that is associated with the late submission of the same, the petition fee, and a one-month extension of time so as to make timely this response[2].

Petitioner has met requirements (1), (2), and (5) of Rule § 1.47(a).

Regarding the **third requirement** of Rule § 1.47(a), Petitioner has failed to include a statement of the last known address of non-signing inventor Sasser[3]. Petitioner has provided only phone numbers for this individual.

Regarding the **fourth requirement** of Rule § 1.47(a), Petitioner has asserted that the non-signing inventor "refuses to sign," however it does not appear that Petitioner has sent him a complete copy of the application.

It follows that one cannot refuse to sign something which one has not been presented with. 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 pursuant to 37 C.F.R. § 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

Before filing the renewed petition, Petitioner should mail a complete copy of the application to the last known residential address of the non-signing joint inventor, and provide him with a reasonable period of time to respond.

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2 It is noted that the petition contains a certificate of mailing dated September 25, 2007.
3 See MPEP 409.03(e).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.47(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[5], hand-delivery[6], or 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.

It is noted that the address listed on the petition differs from the address of record. The application file indicates that a power of attorney and correspondence address indication form was filed concurrently with this petition, however the address given on the petition differs from the address that is associated with the customer number that appears thereon.

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

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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.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[9].

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

cc: THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84070

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.

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Paper No.

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Crag C. Binks and Robert L. Sasser<br>Application No. 11/807,373<br>Filed: May 25, 2007<br>Attorney Docket Number: 02276-25410.NP<br>Title: FLEXIBLE BEVERAGE CONTAINER | DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) |

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed March 24, 2008.

Receipt of the concurrently submitted petition for a two-month extension of time, so as to make timely this submission, is acknowledged[1].

This renewed petition pursuant to Rule § 1.47(a) is **DISMISSED**.

On May 25, 2007, the application was filed, identifying Crag C. Binks and Robert L. Sasser as joint inventors. The application was deposited without an executed declaration. On June 26, 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.

1 It is noted that the transmittal form that accompanied this renewed petition contains a certificate of mailing dated March 20, 2008.

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 pursuant to 37 C.F.R. § 1.47(a) was filed on September 27, 2007, including, *inter alia*, a declaration that was executed by Mr. Binks, the fee that is associated with the late submission of the same, the petition fee, and a one-month extension of time so as to make timely this submission[2]. The original petition was dismissed via the mailing of a decision on November 20, 2007, for failure to meet requirements (3) and (4) of Rule 1.47(a).

With this renewed petition, Petitioner has included the last known address of non-signing inventor Sasser, along with a showing that a complete copy of the application was sent to the last-known address of this individual. Consequently, requirements (3) and (4) of Rule 1.47(a) have been met.

The decision on the original petition indicated that requirement (5) of Rule 1.47(a) had been met. Due to the fact that the declaration fails to contain the address for the non-signing inventor, this position was predicated on the fact that an Application Data Sheet (ADS) was provided on filing (the ADS contains the mailing address of non-signing inventor Sasser).

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2 It is noted that the original petition contains a certificate of mailing dated September 25, 2007.

With this renewed petition however, Petitioner has provided the last-known address of non-signing inventor Sasser, and this address does not match the address that appears on the ADS.

With the renewed petition, Petitioner should submit either **a declaration that includes this missing information for non-signing inventor Sasser, or a supplemental ADS that contains the correct information for this non-signing inventor**.

Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(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. § 1.47(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[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.

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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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

| | |
|---|---|
| In re Application of<br>Crag C. Binks and Robert L. Sasser<br>Application No. 11/807,373<br>Filed: May 25, 2007<br>Attorney Docket Number: 02276-25410.NP<br>Title: FLEXIBLE BEVERAGE CONTAINER | DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) |

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(a), filed May 6, 2008.

This second renewed petition pursuant to Rule 1.47(a) is **GRANTED**.

On May 25, 2007, the application was filed, identifying Crag C. Binks and Robert L. Sasser as joint inventors. The application was deposited without an executed declaration. On June 26, 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 pursuant to 37 C.F.R. § 1.47(a) was filed on September 27, 2007, including, *inter alia*, a declaration that was executed by Mr. Binks, the fee that is associated with the late submission of the same, the petition fee, and a one-month extension of time so as to make timely this submission[1]. The original petition was dismissed via the mailing of a decision on November 20, 2007, for failure to meet requirements (3) and (4) of Rule 1.47(a).

A renewed petition pursuant to 37 C.F.R. § 1.47(a) was filed on March 24, 2008, and was dismissed via the mailing of a decision on April 11, 2008, as the last-known address that was given for the non-signing joint inventor did not match the address that had been listed on the declaration.

With this second renewed petition, a Supplemental Application Data Sheet (ADS) has been provided, which includes the correct last-known address of the non-signing joint inventor.

Petitioner has met all requirements of Rule 1.47(a), and has submitted all required fees. Therefore, this renewed petition is **granted** and this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47, this Office will forward notice of the filing of this application to the non-signing inventor at the address which appears on the ADS. Notice of the filing of this application will also be published in the Official Gazette.

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1 It is noted that the original petition contains a certificate of mailing dated September 25, 2007.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 05/17/2010

| | | |
|---|---|---|
| **Applicant** | : Ryan C. Shea | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619217 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/807,400 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/29/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENNAMETAL INC.
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE, PA 15650

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**OFFICE OF PETITIONS**

In re Application of Kappel et al. :
Application No. 11/807,411 :
Filing Date: May 29, 2007 :
Attorney Docket No. K-2421C :

Decision on Petition

This is a decision in response to the petition filed September 4, 2007, requesting, in effect, that pages 4 and 5 of the specification filed on September 4, 2007, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed May 29, 2007.

The Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" on June 29, 2007. The Notice stated pages 4 and 5 of the specification did not appear to be part of the application as filed.

In response, the present petition was filed. Petitioner alleges pages 4 and 5 of the specification were filed with the original application.

An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file.[1]

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[1] Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996) stated,

> Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date. . . . Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. . . . The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

In essence, the statements filed by petitioner allege the missing pages must have been part of the application based on the reliability of petitioner's standard operating procedures when filing applications. However, using the same logic, the Office can allege the missing pages must not have been filed since standard operating procedure at the Office would have ensured the drawings were placed in the application file.

The official government record, maintained by disinterested USPTO employees as a part of their customary and usual duties, indicates the pages at issue were not filed on May 29, 2007. The declarations have been considered. However, petitioner has not established the declarations have more probative value than the official government record of what was actually received in the USPTO on May 29, 2007. Therefore, petitioner has failed to prove pages 4 and 5 of the specification were filed on May 29, 2007.

The USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed with a self-addressed postcard identifying the paper. When the Office receives correspondence, an employee verifies that the documentation listed on the postcard is present, stamps it, and then mails it back to the applicant. A postcard receipt itemizing and properly identifying filed papers will be considered serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the transmittal sheet indicates a postcard receipt was filed with the application papers. However, a copy of the postcard receipt was not filed with the petition. If the postcard receipt verifies receipt of all the missing pages, the postcard will be considered prima facie evidence of receipt in the USPTO of the missing items.

Since applicants have not filed a petition under 37 CFR 1.182 requesting September 4, 2007, the date the missing pages were filed, be the new filing date, the copy of the missing pages filed September 4, 2007, will not be entered.

The original application papers will include only those application papers present on the date of deposit.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53(e)."

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

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

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

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

The Office of Patent Application Processing will be informed of the instant decision and will process the application with a filing date of May 29, 2007, using only the papers filed May 29, 2007, unless a request for reconsideration or petition under 37 CFR 1.182 is filed and granted.

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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8-23-07

| | | |
|---|---|---|
| In re application of<br>Shyam V. Dighe et al<br>Serial No. 11/807,436<br>Filed: May 29, 2007<br>For: SYSTEM AND PROCESS FOR UPGRADING HEAVY HYDROCARBONS | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the petition filed on August 7, 2007 (Certificate of Mailing) to make the above-identified application special because the invention materially contributes to the development of energy sources.

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

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection VI (Energy) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) on or after August 25, 2006;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

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

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS). Furthermore, the petition to make special was not filed concurrently with the application as required by MPEP § 708.02(a).

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

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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**DANIEL E. LAZZARA**
**WESTINGHOUSE PLASMA CORPORATION**
**P.O. BOX 410**
**MADISON PA 15663**

COPY MAILED
MAR 18 2010

In re Patent No. 7,632,394 :
Issue Date: December 15, 2009 :
Application No. 11/807,436 : NOTICE
Filed: May 29, 2007 :
Attorney Docket No. 2007WP1 :

This is a notice regarding your communication filed December 14, 2009, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

Petitioner asserts that the filing and the issue fees were incorrectly paid at the small entity rate. However, the petition does not comply with the requirements under 37 CFR 1.28(c)(2)(ii), which states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> > A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee; two-month extension of time fee) along with the current fee amount for a non-small entity;
> >
> > (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> >
> > (C) The deficiency owed amount (for each fee erroneously paid); and
> >
> > (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The filing fees were not itemized in the communication received December 14, 2009.

Applicant is given **ONE MONTH** to submit a complete listing of the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

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

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By internet: | EFS-Web<br>www.uspto.gov/ebc/efs_help.html<br>(for help using EFS-Web call the<br>Patent Electronic Business Center<br>at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JUN 07 2010

OFFICE OF PETITIONS

**DANIEL E. LAZZARA**
**WESTINGHOUSE PLASMA CORPORATION**
**P.O. BOX 410**
**MADISON PA 15663**

| | | |
|---|---|---|
| In re Patent No. 7,632,394 | : | |
| Issue Date: December 15, 2009 | : | |
| Application No. 11/807,436 | : | NOTICE |
| Filed: May 29, 2007 | : | |
| Attorney Docket No. 2007WP1 | : | |

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 received May 11, 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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**GORDON H. TELFER**
**252 PENHURST DRIVE**
**PITTSBURGH, PA 15235-5322**

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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OTHO B. ROSS
c/o LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH, 15TH
FLOOR
NEW YORK NY 10016

MAILED

MAY 07 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lee Shaw | : | |
| Application No: 11/807,438 | : | DECISION ON PETITION |
| Effective Date: 29 May 2007 | : | |
| Attorney Docket No: SHAW-1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 04 February 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 28 June 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 29 August 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 sheet of drawings, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Zohreh Fay at 571-272-6051 or in her absence to the undersigned at 571-272-7099.

This application is being referred to the Office Patent Application Processing.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Otto B. Ross
30 Waterside Plaza, # 30-G
New York, NY 10010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**The Webb Law Firm, P.C.**
**700 Koppers Building**
**436 Seventh Avenue**
**Pittsburgh, PA 15219**

COPY MAILED

MAR 26 2008

In re Application of

Jack Vincent Matson et al.
Application No. 11/807,458
Filed: May 29, 2007
Attorney Docket No. 4514-071589

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 20, 2007.

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

A review of the file record indicates that the power of attorney to Kirk M. Miles and all attorneys/agents associated with customer number 28289 has been revoked by the assignee of the patent application on February 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no pending office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Barbara E. Johnson, Esq.
555 Grant Street, Suite 323
Pittsburgh, PA 15219

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 05 2009
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JUN 05 2009
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**BARBARA E. JOHNSON, ESQ.**
**555 GRANT STREET, SUITE 323**
**PITTSBURG, PA 15219**

In re Application of
**Jack V. MATSON, et al.**
Application No. 11/807,458
Filed: May 29, 2007
Attorney Docket No. **4514-071589**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue/publication fees on or before March 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2008. Accordingly, the date of abandonment of this application is March 12, 2009.

A review of the file record discloses that on March 13, 2009, petitioner submitted a PTOL-85 requesting a change in entity status from large to small (*box 5a checked on PTOL-85*). However petitioner submitted the issue fee payment of $1510 (large entity). The current fee for small entity issue fee is $755. The overpayment amount of $755 has been credited to petitioner's deposit account number 50-4488.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

**UNITED STATES PATENT & TRADEMARK OFFICE**
**Washington, D.C. 20231**

## REQUEST FOR PATENT FEE REFUND

1 Date of Request: 05/22/09

2 Serial/Patent # 11/807,458

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
|---|---|---|---|---|
| | Filing | | | $ |
| | Amendment | | | $ |
| | Extension of Time | | | $ |
| | Notice of Appeal/Appeal | | | $ |
| | Petition | | | $ |
| | Issue | | | $ |
| | Cert of Correction/Terminal Disc. | | | $ |
| | Maintenance | | | $ |
| | Assignment | | | $ |
| X | Other 1501 | IFEE | 03/13/09 | $ 755.00 |

7 TOTAL AMOUNT OF REFUND $ 755.00

8 TO BE REFUNDED BY:

| | |
|---|---|
| | Treasury Check |
| X | Credit Deposit A/C #: |

9 5 0 -- 4 4 8 8

10 REASON:

| | |
|---|---|
| X | Overpayment |
| | Duplicate Payment |
| | No Fee Due (Explanation): |

Petitioner incorrectly paid large entity issue fee of $1510, should have paid $755 for small entity.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

**********

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: OKhDK DATE: 6/3/09

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

**Office of Finance**
**Refund Branch**
**Crystal Park One, Room 802B**

FORM PTO 1577
(01/90)

4/20/09

PTO/SB/64 (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 displays a valid OMB control number.

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

Docket Number (Optional) 4514-071589

First named inventor: MATSON, Dr. Jack V.

Application No.: 11/807,458

Filed: May 29, 2007

Title: Green Biodiesel

Art Unit: 1621

Examiner: CUTLIFF, Yate Kai Rene

Adjustment date: 06/03/2009 CKHLOK
03/16/2009 KFEKADU2 00000010 11807458
01 FC:1501 -1510.00 OP
06/03/2009 CKHLOK 00000001 11807458
01 FC:2501 755.00 OP
Refund Ref:
06/03/2009 0030070761
---
Credit Card Refund Total: $755.00
VISA....: XXXXXXXXXXXX1187

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee
☑ Small entity-fee $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Part B –Fees Transmittal (identify type of reply):
☑ has been filed previously on March 13, 2009.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1085.00
☐ has been paid previously on _____
☑ is enclosed herewith.

Adjustment date: 05/18/2009 LDIEP1
04/20/2009 INTEFSW 00000989 11807458
01 FC:2453 -810.00 OP
05/18/2009 LDIEP1 00000002 11807458
01 FC:2452 810.00 OP



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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

**WARNING:**

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

| | |
|---|---|
| Signature | April 20, 2009<br>Date |
| Barbara E. Johnson<br>Typed or printed name | 31,198<br>Registration Number, if applicable |
| 555 Grant Street, Suite 323<br>Address | 412-281-3350<br>Telephone Number |
| Pittsburgh, Pennsylvania 15219<br>Address | |

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

| | |
|---|---|
| April 20, 2009<br>Date | Signature |
| | Barbara E. Johnson, Attorney of Record<br>Typed or printed name of person signing certificate |

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

**BARBARA E. JOHNSON, ESQ.**
**555 GRANT STREET, SUITE 323**
**PITTSBURG, PA 15219**

**MAILED**

JUN 05 2009

**OFFICE OF PETITIONS**

In re Application of
**Jack V. MATSON, et al.**
Application No. 11/807,458
Filed: May 29, 2007
Attorney Docket No. **4514-071589**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue/publication fees on or before March 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2008. Accordingly, the date of abandonment of this application is March 12, 2009.

A review of the file record discloses that on March 13, 2009, petitioner submitted a PTOL-85 requesting a change in entity status from large to small (*box 5a checked on PTOL-85*). However petitioner submitted the issue fee payment of $1510 (large entity). The current fee for small entity issue fee is $755. The overpayment amount of $755 has been credited to petitioner's deposit account number 50-4488.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

COPY MAILED
AUG 06 2008

In re Application of :
Daizo Oka :
Application No. 11/807,471 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. SONYJP 3.0-1362

This is a decision on the petition, filed August 6, 2008 which is being treated as a petition 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 June 10, 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).

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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STMicroelectronics Inc.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
BOSTON, MA 02210-2206

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Francois Dupont | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7671698 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/807,507 | : OF WYETH |
| **Filed** | : 05/29/2007 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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

**CARLO R. CALALAY**
**2101 S. HARVEY AVE. # 121**
**OKLAHOMA CITY OK 73109-5952**

**COPY MAILED**

AUG 2 7 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Carlo Rene' Calalay | : | |
| Application No. 11/807,532 | : | DECISION ON PETITION |
| Filed: May 29, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 25, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course.

With respect to the applicant's petitions to make special under environmental quality and energy, these petitions are handled by the Technology Centers and will not be treated at this time as each distinct subject, inquiry or order must be contained in a separate paper as different branches or section of the Office. See 37 CFR 1.4. Moreover, applicant is advised that a petition to make special filed on or after August 25, 2006 will only be granted if is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a).

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3682 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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

ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

COPY MAILED
DEC 09 2008

Applicant: SILVERGLATE, et al.
Appl. No.: 11/807,630
Filing Date: May 29, 2007
Title: CAFFEINATED CHOCOLATE DRINK
Attorney Docket No.: DSG-O6301
Pub. No.: US 2007/0281069 A1
Pub. Date: December 6, 2007

This is a decision on the request entitled "Request for Corrected Publication Pursuint 37 CFR 1.221", which appears to be a request to amend the publication to correct Applicant's errors in the application, received on January 10, 2008 and May 5, 2008, for the above-identified application

The request is DISMISSED.

Applicants request relief under 37 CFR 1.221(a) or alternatively under 37 CFR 1.221(b) that the title be changed from "Caffeinated Coffee Drink" to "Caffeinated Chocolate Drink", as the Office improperly published the application. Applicant states that the original specification "which controls" along with the declaration contains the correct title and it improper titled was on the Application Data Sheet (ADS). Applicant states that he filed a supplemental ADS, but that it was not acted upon and the publication includes an incorrect title.

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

The request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the title. The application was correctly published with the title provided

[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).

on the application as filed and the Application Data Sheet (ADS) received by the Office. See 37 CFR 1.76.

Even if the Office made a mistake in the title of the invention, the mistake would not be a material error under 37 CFR 1.221(b). The error in the title of the invention does not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The supplemental application data sheet was received on July 26, 2007 was received too late in the publication process to amend the title. The supplemental application data sheet is improper as it does not indicate the changes. See 37 CFR 1.76(c)(2).

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

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

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

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

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

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Olson and Olson**
**5412 SE Foster Road**
**Portland, OR 97206**

**COPY MAILED**

FEB 03 2009

**OFFICE OF PETITIONS**

In re Application of
Joseph J. Marak et al.
Application No. 11/807,633
Filed: May 30, 2007
Attorney Docket No. 2171

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 December 19, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the an attorney on behalf of 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 Office of Patent Application Processing at 571-272-4000.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center 3728 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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**RYNDAK & SURI LLP**
**200 W. MADISON STREET**
**SUITE 2100**
**CHICAGO, IL 60606**

MAILED

JUL 07 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andrew P. Swan | : | |
| Application No. 11/807,645 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | |
| Attorney Docket No. 28193-10198 | : | |

This is a decision on the petition, filed May 17, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 6, 2009, which set a three (3) month shortened statutory period for reply. A reply was due on or before January 6, 2010.

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 December 15, 2009. A copy of the previously submitted reply accompanies the petition.

The response acknowledged as having been received in the USPTO on December 15, 2009 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on December 15, 2009.

This application is being referred to Technology Center AU 1797 for appropriate action in the normal course of business on the reply received with petition.

Carl Friedman
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

Bindu Rama Rao
21 Henley Drive
Laguana Nigel CA 92677

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Rao :
Application No. 11/807,672 : DECISION ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. BRR2006US07-U1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed July 9, 2009. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 10, 2009. A Notice of Abandonment was mailed on February 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted on May 28, 2010 was subsequent to the maximum extendable period for reply, the fees will be refunded to deposit account 13-0017.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

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

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

This application is being referred to Technology Center AU 2458 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Kevin E. Borg
500 West Madison , Floor 34
Chicago, Illinois 60661

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

**CROCKETT & CROCKETT, P.C.**
**26020 ACERO**
**SUITE 200**
**MISSION VIEJO CA 92691**

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of

**VERHEEM,** Johann B.
Application No. 11/807,688
Filed: May 29, 2007
Attorney Docket No. **212/915**

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 12, 2009.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (2) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHANN B. VERHEEM**
**2387 LA MIRADA DRIVE**
**VISTA CA 92081**

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

**CROCKETT & CROCKETT, P.C.**
**26020 ACERO**
**SUITE 200**
**MISSION VIEJO CA 92691**

**COPY MAILED**

JUL 23 2009

**OFFICE OF PETITIONS**

In re Application of

**VERHEEM,** Johann B.
Application No. 11/807,688
Filed: May 29, 2007
Attorney Docket No. **212/915**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 14, 2009.

The request is **APPROVED**.

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

The request was signed by Paul Backofen on behalf of all attorneys of record who are associated with customer No. 23371. All attorneys/agents associated with the Customer Number 23371 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 Johann Verheem at the address indicated below. There is an outstanding Office action mailed December 17, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHANN B. VERHEEM**
**2387 LA MIRADA DRIVE**
**VISTA CA 92081**

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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SEP 25 2009

**OFFICE OF PETITIONS**

**THE NATH LAW GROUP**
**112 SOUTH WEST STREET**
**ALEXANDRIA, VA 22314**

| | | |
|---|---|---|
| In re Application of | : | |
| Johann B. Verheem | : | |
| Application No. 11/807,688 | : | ON PETITION |
| Filed: May 29, 2007 | : | |
| Attorney Docket No. 212/915 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the Non-Final Office action mailed December 17, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 18, 2009. A Notice of Abandonment was mailed June 18, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (3). The statement of unintentional delay pursuant 37 CFR 1.137(b) cannot be accepted since there is a question as to whether the abandonment and the delay in filing a petition under 37 CFR 1.137 was unintentional.

According to the Request for Withdrawal as Attorney pursuant 37 CFR 1.36 and supporting documentation filed on June 12, 2009, the client instructed the attorney of record at the time, Paul J. Backofen, to allow the above-identified application to go abandoned. Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

The Power of Attorney filed August 12, 2009, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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 Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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 |
|---|---|---|---|
| 11/807,688 | 05/29/2007 | Johann B. Verheem | 212/915 |

**CONFIRMATION NO. 6862**

**POA ACCEPTANCE LETTER**

20529
THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

*OC000000037948796*

Date Mailed: 09/23/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

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.

/atkelley/

---

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

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**MUIRHEAD AND STURNELLI, LLC**
**200 FRIBERG PARKWAY**
**SUITE 1001**
**WESTBOROUGH MA 01581**

**MAILED**

SEP 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ginter et al. | : | |
| Application No. 11/807,699 | : | DECISION GRANTING PETITION |
| Filed: May 30, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. VRS-00104 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 19, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application lacks not of the above items.

However, the amendment is not acceptable as drafted since it uses the phrase "which is based on" rather than the accepted language of "claims benefit of." See MPEP 201.11 5(j) III B. When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment correcting this statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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DEC 0 2 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Ginter et al. | : |
| Application No. 11/807,699 | : DECISION GRANTING PETITION |
| Filed: May 30, 2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. VRS-00104 | : |

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/477,088, filed June 9, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application, as required by 37 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/477,088, which was filed on June 9, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(5)(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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Any 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 AU 2454 for appropriate action on the amendment submitted September 30, 2009, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/477,088 filed June 9, 2003.

/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 |
|---|---|---|---|---|---|---|
| 11/807,699 | 05/30/2007 | 2454 | 7766 | VRS-00104 | 96 | 12 |

**CONFIRMATION NO. 6394**

**CORRECTED FILING RECEIPT**

54004
MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

*OC000000039047933*

Date Mailed: 12/02/2009

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

**Applicant(s)**

Andrew Ginter, Calgary, CANADA;
Kegan Kawano, Boston, MA;
Tom Hutchinson, Calgary, CANADA;
Rui Manuel Martins Lopes, Airdrie, CANADA;
Erik P. Hope, Calgary, CANADA;
Brad McMillan, Calgary, CANADA;
Adam Muegge, Calgary, CANADA;
Andy G. Mah, Calgary, CANADA;
Brett Jensen, Alberta, CANADA;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/815,222 03/31/2004 PAT 7,246,156
which claims benefit of 60/477,088 06/09/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 04/07/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/807,699**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Event monitoring and management

**Preliminary Class**

709

## 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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P.O. Box 1450
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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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JAN 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tupinier, et al. | : | DECISION GRANTING STATUS |
| Application No. 11/807,719 | : | UNDER 37 CFR 1.47(a) |
| Filed: May 30, 2007 | : | |
| Attorney Docket No. DP-315469 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed October 9, 2007 (certificate of mailing date October 5, 2007).

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Oliver R. Marroux, has constructively refused to join in the filing of the above-identified application.

Pursuant to petitioners' authorization, deposit account no. 50-0831 will be charged the required $200.00 Rule 47 petition fee.

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 the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OLIVER R. MARROUX
32, RUE DES AUGUSTINES
BIARD, France, 86580

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JAN 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tupinier, et al. | : | LETTER |
| Application No. 11/807,719 | : | |
| Filed: May 30, 2007 | : | |
| Attorney Docket No. DP-315469 | : | |

Dear Mr. Marroux:

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Johan Smets | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7601681 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/807,738 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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

**JEFFER, MANGELS, BUTLER & MARMARO, LLP**
**1900 AVENUE OF THE STARS, 7TH FLOOR**
**LOS ANGELES CA 90067**

| | | |
|---|---|---|
| In re Application of | : | |
| Applebaum et al. | : | DECISION ON PETITION |
| Application No. 11/807,756 | : | TO WITHDRAW |
| Filed: May 30, 2007 | : | FROM RECORD |
| Attorney Docket No. 68904-5002 | : | |

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 1, 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 Brennan C. Swain on behalf of all attorneys/agents of record who are associated with Customer Number 24574.

All attorneys/agents associated with Customer Number 24574 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, AK Beauty, LLC, at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: AK BEAUTY, LLC
c/o PHILIP I. KLEIN, ESQ.
2049 CENTURY PARK EAST
SUITE 3180
LOS ANGELES CA 90067

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Alexandria, VA 22313-1450
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MCKEON MEUNIER CARLIN
& CURFMAN LLC
817 W. PEACHTREE STREET, SUITE 900
ATLANTA GA 30308

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Thompson, et al. | : | |
| Application No. 11/807,771 | : | DECISION |
| Filed/Deposited: 30 May, 2007 | : | |
| Attorney Docket No. 10005-017US2 | : | |

This is a decision on the petition filed on 22 January, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(b)."

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

As to the Allegations
of Unintentional Delay

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

**It appears that Petitioner has not satisfied the statement showing requirements: It does not appear that Petitioner was in control of the application at the time it went abandoned and Petitioner failed to properly make the regulatory statement of unintentional delay. Petitioner is directed to the Office form (PTO/SB/64, which may be found at: http://www.uspto.gov/forms/index.jsp ) for a proper petition herein.**

**Moreover, Petitioner has submitted a request and fee for extension of time following the expiration of the statutory period, which Petitioner—as one registered to practice before the Office—knows is not proper. The fee is being refunded via Deposit Account 06-1050. Should Petitioner later find that the fee was not refunded, Petitioner should file a request with the Office of Finance and included therewith a copy of this decision.**

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 July, 2009, with reply due absent extension of time on or before 14 October, 2009.

The application went abandoned by operation of law after midnight 14 October, 2009.

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

On 22 January, 2010, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a reply in the form of an amendment, but failed to make a proper statement of unintentional delay and further it does not appear that Petitioner either was in a position to make the statement of unintentional delay or had expressed affirmatively that a proper inquiry was made to ensure the accuracy of such a statement made.

The Office mailed a Notice of Abandonment on 16 March, 2010.

*The deficiencies must be addressed on any renewed petition.*

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

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

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

## STATUTES, REGULATIONS

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

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

## CONCLUSION

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

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

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

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

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

---

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

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

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

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OBER, KALER, GRIMES & SHRIVER
120 EAST BALTIMORE STREET
BALTIMORE, MD 21202-1643

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OFFICE OF PETITIONS

In re Application of
James B. Babcock
Application No. 11/807,828
Filed: May 30, 2007
Attorney Docket No. 027774.079580

ON PETITION

This is a decision in response to the petition, filed January 13, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 31, 2008. A Notice of Abandonment was mailed on December 12, 2008. On January 13, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the response filed January 13, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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David A. Einhorn, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York NY 10111

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| JOHN A. BLACKMAN | : | DECISION ON PETITION |
| Application No. 11/807,835 | : | |
| Filed: 05/29/2007 | : | |
| Attorney Docket No. 041838.000006 | : | |

This is a decision in response to the communication entitled "Response to Notice to File Missing Parts of Nonprovisional Application Under 37 CFR 1.53(b)", filed January 22, 2009, which is properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

This application became abandoned for failure to file a timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed on June 28, 2007. The Notice set a two-month period to submit an executed oath or declaration, replacement drawings, and a surcharge. No extensions of the period were obtained pursuant to 37 CFR 1.136(a). In the apparent absence of a timely and proper reply, the application became abandoned on August 29, 2007. A Notice of Abandonment was mailed on November 19, 2008.

With the present petition, petitioner submitted copies of the Transmittal Letter, the Response to Notice to File Missing Parts of Nonprovisional Application Under 37 CFR 1.53(b) (Response), an executed declaration, a surcharge for its late filing, and a copy of USPS Express Mail Label No. EV781046582US with a date-in of August 23, 2007. The Express Mail Label Number appears on the postcard receipt, the Transmittal Letter, the Response, and the declaration. Petitioner did not file replacement drawings in response to the Notice to File Missing Parts. Rather, petitioner asserted: "Applicant's attorney has contacted the Examiner regarding the objected drawings on or about July 6, 2007." *Response filed 01/22/09, p.1.* "The Examiner has lifted the objection and submission of replacement drawings are not required." *Id.*

The Office has considered petitioner's arguments and finds them persuasive. A review of the record reveals that the requirement for replacement drawings was withdrawn. *See Letter mailed 04/22/09.* Furthermore, petitioner has established that he deposited the reply in the Express Mail service on August 23, 2007. Thus, the reply is considered timely filed on August 23, 2007. See 37 CFR 1.10(c).

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a proper and timely reply was submitted.

This application is being referred to Technology Center Art Unit 3728 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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MENLO PATENT AGENCY LLC
435 HERMOSA WAY
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of
Brian L. Heffner, et al.
Application No. 11/807,840
Filed: May 30, 2007
Attorney Docket No. STR416

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 1, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to David R. Gildea of Menlo Patent Agency, LLC has been revoked by the assignee of the patent application on December 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: BING AI
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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**STOCKWELL & SMEDLEY, PSC**
**861 CORPORATE DRIVE, SUITE 200**
**LEXINGTON KY 40503**

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Jeff Martin, | : | |
| Application No. 11/807,842 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | |
| Attorney Docket No. 721-001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 9, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 9, 2009. Accordingly, the date of abandonment of this application is September 10, 2009. The Notice of Abandonment was mailed October 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

Terri Johnson
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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**MUIRHEAD AND STURNELLI, LLC**
**200 FRIBERG PARKWAY**
**SUITE 1001**
**WESTBOROUGH MA 01581**

**MAILED**

SEP 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ginter et al. | : | |
| Application No. 11/807,877 | : | DECISION GRANTING PETITION |
| Filed: May 30, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. VRS-00103 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 19, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The intermediate nonprovisional application was filed on March 31, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/477,088, which was filed on June 9, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it uses the phrase "which is based on" rather than the accepted language of "claims benefit of." See MPEP 201.11 5(j) III B. When the nonprovisional application is entitled to an earlier U.S. effective

filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] correcting the above discussed language, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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**MUIRHEAD AND STURNELLI, LLC**
**200 FRIBERG PARKWAY**
**SUITE 1001**
**WESTBOROUGH MA 01581**

**MAILED**

OCT 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ginter et al. | : | |
| Application No. 11/807,877 | : | DECISION GRANTING PETITION |
| Filed: May 30, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. VRS-00103 | : | |

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/477,088, filed June 9, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application, as required by 37 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/477,088, which was filed on June 9, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(5)(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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Any 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 AU 2432 for appropriate action on the amendment submitted September 30, 2009, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/477,088 filed June 9, 2003.

/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 |
|---|---|---|---|---|---|---|
| 11/807,877 | 05/30/2007 | 2432 | 1700 | VRS-00103 | 24 | 2 |

**CONFIRMATION NO. 8074**

**CORRECTED FILING RECEIPT**

54004
MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

*OC000000038413621*

Date Mailed: 10/22/2009

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

**Applicant(s)**

Andrew Ginter, Calgary, CANADA;
Kegan Kawano, Boston, MA;
Tom Hutchinson, Calgary, CANADA;
Rui Manuel Martins Lopes, Airdrie, CANADA;
Erik P. Hope, Calgary, CANADA;
Brad McMillan, Calgary, CANADA;
Adam Muegge, Calgary, CANADA;
Andy G. Mah, Calgary, CANADA;
Brett Jensen, Calgary, CANADA;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/815,222 03/31/2004 PAT 7,246,156
which claims benefit of 60/477,088 06/09/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/22/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/807,877**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Event monitoring and management

**Preliminary Class**

726

## 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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P.O. BOX 10395
CHICAGO, IL 60610

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|---|---|---|
| In re Application of<br>Neal E. Fearnot, et. al.<br>Application No. 11/807,879<br>Filed: May 30,2007<br>Attorney Docket No. PA-5840-RFB8627/1677 | : | DECISION ON PETITION TO WITHDRAW FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed December 14, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because James P. Naughton and the attorneys/agents associated with Customer No. 48003 have not provided a correspondence address for the intervening assignee[1] or first named inventor. Therefore, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Additionally, the Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82).

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] 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).

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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of :
Harrison, et al. : DECISION ON PETITION
Application No. 11/807,927 :
Filed: May 29, 2007 :
Atty. Dkt. No.: 60742C(71250) :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 2, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned August 27, 2007 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 26, 2007. The Notice set a two month statutory period of time for reply. Notice of Abandonment was mailed March 10, 2008.

Petitioners argue that a reply to the Notice was timely submitted October 23, 2007. Petitioners indicate that the reply included petition for extension of time. Petitioners also indicate that the reply bore a certificate of transmission in accordance with 37 CFR 1.8.

Maria Carr signed the certificate of transmission, a copy of which was included with the petition. Ms. Carr has not submitted a statement concerning the transmission nor have petitioners set forth any information concerning their actual knowledge of the transmission.

If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after

the person becomes aware that the Office has not received the correspondence. *See*, MPEP 512 and 37 CFR 1.8(b)(3).

Any renewed petition should include a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission. Petitioners may include a copy of the sending unit's report confirming transmission to support this statement.

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 concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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DEC 16 2008

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|---|---|---|
| In re Application of | : | |
| Harrison, et al. | : | |
| Application No. 11/807,927 | : | DECISION ON PETITION |
| Filed: May 29, 2007 | : | |
| Attorney Docket No. 60742C(71250) | : | |

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned August 27, 2007 for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 26, 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. Notice of Abandonment was mailed March 10, 2008.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525.00 extension of time fee submitted with the petition on August 18, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**Paul D. Greeley**
**Ohlandt, Greeley, Rugiero & Perle, L.L.P.**
**10th Floor**
**One Landmark Square**
**Stamford CT 06901-2682**

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APR 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Nigel Thorneywork et al. :
Application No. 11/807,940 :
Filed: May 30, 2007 :
Attorney Docket No. 3022.014USU :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 16, 2009 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2009. A Notice of Abandonment was mailed on November 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the election is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/807,952 | 05/30/2007 | Mitsuru Yokoyama | 40060759-02 | 8338 |

7590 12/03/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER |
|---|
| GHAYOUR, MOHAMMAD H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Repin, Ref: 12/02/2009 NFARMER 0017582509
DA#:50107E Name/Number:11807952
FC: 9204 $780.00 CR

Adjustment date: 12/02/2009 NFARMER
06/01/2007 EAREGAY1 00000022 11807952
02 FC:1111 -500.00 CP
04 FC:1201 -280.00 CP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MAILED**

APR 12 2010

**OFFICE OF PETITIONS**

**THE PROCTER & GAMBLE COMPANY**
**GLOBAL LEGAL DEPARTMENT – IP**
**SYCAMORE BUILDING – 4TH FLOOR**
**299 EAST SIXTH STREET**
**CINCINNATI OH 45202**

| | | |
|---|---|---|
| In re Application of | : | |
| Jonathan Todd SAMUEL, et al | : | |
| Application No. 11/807,976 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. 10820 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 23, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 21, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JAN 12 2010

| | | |
|---|---|---|
| In re Application of<br>KOIKE, YOSHIO<br>Application No. 11/808,004<br>Filed: 06/05/2007<br>Attorney Docket No. 1602.1143 | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>UNDER 37 CFR 1.78(a)(3) |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 6, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 for benefit of priority to the prior-filed application.

The petition is **DISMISSED AS MOOT**.

A reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a). Rather, the reference was submitted in the application transmittal letter filed with the present application.

Where a claim for priority under 37 CFR 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1]

In the present case, the Office noted the reference to the prior application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt. Even though the Office

[1] *Note* MPEP 201.11(III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, an applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filling an amendment to the first sentence(s) of the specification or an ADS. See MPEP 201.11.

In this instance, the reference to the prior application submitted as part of the petition is not a proper benefit claim under 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i). Specifically, the amendment as drafted is unacceptable because the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). 37 CFR 1.121 indicates that amendments are made by filing a paper in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office. Therefore, petitioner is required to file either a Supplemental Application Data Sheet or an amendment in compliance with 37 CFR 1.121, 37 CFR 1.76(b)(5) and 37 CFR 1.33(b)).[2]

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course. No further action on this matter is necessary by the Office of Petitions.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2191 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[2] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or an amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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

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MAY 0 1 2008

**OFFICE OF PETITIONS**

In re Application of :
Jang et al. :
Application No. 11/808,013 :
Filed: June 6, 2007 :
Attorney Docket No. MR3517-151 :
For: High Performance Programmable :
Logic System Interface and Chip :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 13, 2007.

The petition is **DISMISSED**.

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

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

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

The instant petition is not accompanied by proof that the non-signing inventors refused to sign the declaration.

Under certain circumstances, the Office will treat a failure by an inventor to respond to an assignee's request for a signed declaration as constructive refusal.

In order to establish constructive refusal, one must establish, at a minimum, that the inventor was given a reasonable amount of time to respond to the request for the inventor to sign the declaration.

In the instant case, the record is unclear as to the time given to the inventor's to respond to the request for their signatures. The English translation of the letters indicates the letters were dated October 11, 2007. However, Hwa-Jyun Chen's statement indicates the letters were mailed October 30, 2007. Chen's statement is dated October 30, 2007.

Since a possibility exists the letters to the non-signing inventors were mailed on the same day Chen signed his statement, the inventors may not have been given a reasonable amount of time to review and respond to the declaration. Petitioner should determine if Chen has received any response from either non-signing inventor since he submitted his original statement. If Chen has not received any response within the last several months, the Office will consider the lack of response by each non-signing inventor to be constructive refusal.

The instant petition is not accompanied by a proper oath or declaration.

The declaration filed November 13, 2007, includes Hwa-Jyun Chen's signature in the signature blocks for the non-signing inventors.

When a petition is filed under 37 CFR 1.47(a), the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a). A declaration signed by all the available joint inventors with the signature block of the nonsigning inventors left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventors, unless otherwise indicated.

In the instant case, the signature blocks of the non-signing inventors have not been left blank. Instead, Hwa-Jyun Chen's signature appears in both signature blocks. Therefore, the declaration will not be interpreted as signed by the two signing inventors on their on behalf and on behalf of the two non-signing inventors.

A declaration signed by all the available joint inventors with the signature block of the nonsigning inventors left blank should be filed.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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JAN 22 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jang, et al. | : | DECISION REFUSING STATUS |
| Application No. 11/808,015 | : | UNDER 37 CFR 1.47(a) |
| Filed: June 6, 2007 | : | |
| Attorney Docket No. MR3517-152 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed November 14, 2007 and supplemented on December 6, 2007.

The petition is dismissed.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

With respect to (1), it is unclear that Yi-Feng Jang has refused to sign the declaration. Hwa-Jyun Chen's statement of facts is that on October 30, 2007, he forwarded the application, declaration, and assignment to the non-signing inventor. However, the statement of facts itself is dated October 30, 2007. It appears no time was afforded the non-signing inventor to review the application and return executed documents before Mr. Chen's statement was prepared.

In addition, Mr. Chen's statement of facts references a copy of a registered mail receipt that shows the application papers and documents for his execution were mailed to Mr. Jang. The petition does not contain such a receipt. Please provide a copy of the receipt and an English translation of it.

The Office would like petitioner to go on record that the package mailed to Mr. Jang was not returned to sender.

As to item (2), the oath or declaration is not acceptable. Hwa-Jyun Chen, a director of a corporation with proprietary interest in the invention, has executed the declaration in Yi-Feng Jang's signature block. It appears that petitioner has submitted a declaration with the intention of having an entity with proprietary interest intervene and make the application on behalf of the non-signing inventor. Petitioner is reminded that when at least one joint inventor signs the declaration, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b)

Under 37 CFR 1.47(a), all available joint inventors must make declaration on their own behalf **and** on the behalf of the non-signing inventor.

The non-signing inventor's signature block should be left blank to avoid ambiguity regarding his execution of the document.

The simplest way to remedy this problem is to submit a newly executed declaration in which the available inventor executes the document in his signature block and the non-signing inventor's signature block is left blank

With respect to the absence of the inventors' residences on the declaration, petitioner has gone on record stating that the inventors receive mail and live at the same address, namely the listed mailing address. Therefore, under 37 CFR 1.63(c), it is unnecessary to include residences for the inventors on the declaration.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DEC 11 2007
TECHNOLOGY CENTER 2800

**Staas & Halsey, LLP**
**1201 New York Avenue, N.W.**
**Suite 700**
**Washington, D.C. 20005**

| | | |
|---|---|---|
| **In re Application of** | : | **DECISION ON REQUEST TO** |
| **Kenjiro KURODA *et. al.*** | : | **PARTICIPATE IN PATENT** |
| **Application No. 11808120** | : | **PROSECUTION HIGHWAY** |
| **Filed: June 6, 2007** | : | **PILOT PROGRAM AND PETITION** |
| **Attorney Docket No. 1186.1052** | : | **TO MAKE SPECIAL UNDER** |
| **For: OPTICAL SHEET, AND BACKLIGHT UNIT AND DISPLAY USING THE SAME** | : | **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 October 11, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application to validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) to one or more applications filed in the JPO;
(2) 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 to 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) 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) 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 Christine Oda at 571-272-1602.

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.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Tomoyuki Ishii | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7622766 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/808,228 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA VA 22320

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AUG 17 2007

**OFFICE OF PETITIONS**

In re Application of :
RAE et al. :
Application No. 11/808,238 : DECISION ON PETITION
Filed: 06/07/2007 :
Attorney Docket No. 130796.02 :

This is a decision on the petition filed August 7, 2007, requesting that the application be accorded a filing date of June 7, 2007, with Figure 1 as part of the original disclosure.

On June 7, 2007, applicants filed the above-identified application. Applicants stated that during a routine review of the Patent Office's Patent Application Information Retrieval (PAIR), they discovered that the Image File Wrapper for this application did not contain Figure 1. Applicants asserted that they filed Figure 1 with the application papers on June 7, 2007. In support of this assertion, applicants submitted a copy of the returned, date-stamped postcard receipt acknowledging receipt of "37 pp drwgs (figs 1-22B)" in the USPTO on June 7, 2007. Additionally, applicants provided a copy of Figure 1 with the present petition.

Upon review of the record, Figure 1, deposited on June 7, 2007, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 7, 2007, included Figure 1, which was subsequently misplaced in the USPTO. Therefore, the application, including Figure 1, was complete on filing and will be granted a filing date of June 7, 2007. Accordingly, the petition is granted.

The $400.00 petition fee is unnecessary and will be refunded to the Deposit Account.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of June 7, 2007,** using the 36 sheets of drawings submitted on that date, and Figure 1 submitted with the petition on August 7, 2007, as part of the original disclosure.

Any inquiries related to 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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**ARENT FOX LLP**
**Suite 400**
**1050 Connecticut Avenue, N.W.**
**Washington DC 20036-5339**

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JUN 03 2010

**OFFICE OF PETITIONS**

In re Application of
Hector Eduardo Sibilla
Application No. 11/808,253
Filed: June 7, 2007
Attorney Docket No. **026254-00053**

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 April 20, 2010 and resubmitted February 25, 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: **Mr. Ignacio de las Carreras**
**Demarcas.com**
**Talcahuano 958-Piso 18ºC**
**Buenos Aires, C1013AAT**
**Argentina**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,315 | 06/08/2007 | Mitsuru Kano | ARC-4105-113 | 3850 |

7590 04/30/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|
| KUNTZ, CURTIS A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/30/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 05/01/2009 BPOWELL
06/11/2007 MAHMED1 00000031 11808315
02 FC:1111 -500.00 OP

Refund Ref:
05/01/2009 0030069558

Credit Card Refund Total: $510.00

Ha Exp..: XXXXXXXXXXX1004



FORM PET651G (Rev. 08/07)

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Joe McKinney Muncy
PO Box 1364
Fairfax VA 22038-1364

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DEC 2 2 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Kuo-Fan Lin. | : | |
| Application No. 11/808,411 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | |
| Attorney Docket No. 2450-1576PUS1 | : | |

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is FSP Technology Inc., and Kuo-Fan Lin, Taoyuan (TW) and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent that has issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate

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

> of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that FSP Technology Inc., and Kuo-Fan Lin, Taoyuan (TW) is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction in accordance with this decision.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|---|---|
| Applicant(s): Lin, Kuo-Fan | Patent No. 7,391,626 |
| Application No.: 11/808,411 | Issued: June 24, 2008 |
| Filed: 8 Jun 2007 | Confirmation Number: 5375 |
| Title: CHOP WAVE CONTROL CIRCUIT | |
| Attorney Docket No.: 2450/1576PUS1 | |

**MS PETITION**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 3.81(B) TO ISSUE PATENT IN NAME OF ASSIGNEE**

Dear Sir:

Applicants respectfully request that the above-identified patent be corrected to list the following assignee information, which differs from that indicated on the Issue Fee Transmittal Form PTOL-85 submitted on May 15, 2008

**(a) Names of Assignees:**

**(1) FSP TECHNOLOGY INC.**

**(2) Kuo-Fan LIN**

**(b) Residences:**

**(1) Taoyuan City, Taiwan, R.O.C.**

**(2) Taoyuan City, Taiwan, R.O.C.**

The second Assignee was inadvertently omitted from the Issue Fee Transmittal Form due to a clerical error.

This request is being submitted in accordance with 37 CFR 3.81(b) and MPEP 1481.01, which allows for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee.

☒ Attached hereto is a copy of a Notice of Recordation, demonstrating that an Assignment to FSP TECHNOLOGY INC. and Kuo-Fan LIN was submitted for recordation in accordance with § 3.11 before issuance of the patent. This Assignment was recorded at Reel 019460, Frame 0538 on

June 8, 2007.

☒ Attached hereto is a Request for a Certificate of Correction under 37 CFR § 1.323. The $100.00 fee required under 37 CFR § 1.20 (a) is being submitted via credit card.

☒ The $130.00 processing fee required under 37 CFR § 1.17(i) is also being submitted via credit card.

Accordingly, it is respectfully requested that this Petition to issue the patent in the name of both assignees be granted, and that a copy of the Decision granting this Petition be forwarded to the Certificate of Corrections Branch so that a Certificate of Correction showing both assignees' names can be promptly issued and mailed to the undersigned.

Should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Joe McKinney Muncy, Applicants' Attorney, at 703.621.7140 so that such issues may be resolved as expeditiously as possible.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3828 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; in particular, extension of time fees.

Date: November 21, 2008

Respectfully submitted,

Joe McKinney Muncy
Attorney/Agent for Applicant(s)
Reg. No. 32334

Muncy, Geissler, Olds & Lowe, PLLC
PO Box 1364
Fairfax, VA 22038-1364
Tel. 703.621.7140
mailroom@mg-ip.com

U.S. PTO
11/808411
06/08/2007

Form PTO-1595 (Rev. 03-05)
OMB No. 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE
d States Patent and Trademark Office

REC

06-20-2007

103418012

To the Director of the U.S. Patent and Trac

or the new address(es) below.

**1. Name of conveying party(ies):**
Kuo-Fan LIN

Additional name(s) of conveying party(ies) attached? [ ] Yes [x] No

**3. Nature of conveyance/Execution Date(s):**

Execution Date(s): May 7, 2007

[x] Assignment [ ] Merger [ ] Change of Name
[ ] Security Agreement [ ] Joint Research Agreement
[ ] Government Interest Assignment
[ ] Executive Order 9424, Confirmatory License
[ ] Other

**eiving party(ies)**

Name: FSP TECHNOLOGY INC.
Internal Address:
Street Address:
No.22, Jianguo E. Rd.
Taoyuan Hsien
City: Taoyuan City
State:
Country: Taiwan ROC Zip:
Additional name(s) & address(es) attached: [x] Yes [ ] No

**4. Application or patent number(s):** [x] This document is being filed together with a new application.

A. Patent Application No.(s)
NEW

B. Patent No.(s)
11/808411

Additional numbers attached? [ ] Yes [x] No

**5. Name and address to whom correspondence concerning document should be mailed:**

Name: Joe McKinney Muncy
BIRCH, STEWART, KOLASCH & BIRCH, LLP

Internal Address: Atty. Dkt.: 2450-1576PUS1
Street Address: 8110 Gatehouse Road
Suite 100 East
P.O. Box 747

City: Falls Church
State: VA Zip: 22040-0747
Phone Number: (703) 205-8026
Fax Number: (703) 205-8050
Email Address: mailroom@bskb.com

**6. Total number of applications and patents involved:** 1

**7. Total fee (37 CFR 1.21(h) & 3.41)** $ 40.00

[ ] Authorized to be charged by credit card
[x] Authorized to be charged to deposit account
[ ] Enclosed
[ ] None required (government interest not affecting title)

**8. Payment Information**

a. Credit Card Last 4 Numbers
Expiration Date

b. Deposit Account Number 02-2448
Authorized User Name Joe McKinney Muncy

**9. Signature:**

Signature

June 8, 2007
Date

Joe McKinney Muncy - 32,334
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 4

#43,368

06/19/2007 MJAMAL 00000052 022448 11808411
01 FC:8021 40.00 DA

Birch, Stewart, Kolasch & Birch, LLP

KM/eap

Form PTO-1595

**RECORDATION FORM COVER SHEET**
**(continued)**

## Additional Conveying Party(ies)/Execution Date(s) (1. Continued):

## Additional Assignees (2. Continued):

Assignee Name: Kuo-Fan LIN

Internal Address:

Street Address: No.22, Jianguo E. Rd.
Taoyuan Hsien

City: Taoyuan City State: _____ Country: Taiwan ROC Zip: _____

Assignee Name: _____

Internal Address:

Street Address:

City: _____ State: _____ Country: _____ Zip: _____

Assignee Name: _____

Internal Address:

Street Address:

City: _____ State: _____ Country: _____ Zip: _____

## Additional Applications and/or Patents (4. Continued):

| Additional Patent Application Numbers<br>4A. Continued: | Additional Patent Numbers<br>4B. Continued: |
|---|---|
| | |

Additional numbers attached? ☐ Yes ☐ No



Docket No.: 2450-1576PUS1

ATTORNEY DOCKET NO.

2450-1576PUS1

# BIRCH, STEWART, KOLASCH & BIRCH, LLP

UNITED STATES PATENT RIGHTS, OR
UNITED STATES PLUS ALL FOREIGN PATENT RIGHTS

# ASSIGNMENT

Application No. NEW Filed 6/8/07

**Insert Name(s) of Inventor(s)** Kuo-Fan LIN

WHEREAS, (hereinafter designated as the undersigned) has (have) invented certain new and useful improvements in:

**Insert Title of Invention** CHOP WAVE CONTROL CIRCUIT

for which an application for Letters Patent of the United States of America has been executed by the undersigned (except in the case of a provisional application)

**Insert Date of Signing of Application** on May 7, 2007 ; and

**Insert Name of Assignee** WHEREAS, 1. FSP TECHNOLOGY INC. 2. Kuo-Fan LIN

**Insert Address of Assignee** of No.22, Jianguo E. Rd., Taoyuan City, Taoyuan Hsien, Taiwan, R.O.C.

its heirs, successors, legal representatives and assigns (hereinafter designated as the Assignee) is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent(s) that may be granted therefor in the United States of America and

**CHECK BOX IF APPROPRIATE** ☐ **in any foreign countries.**

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) to the undersigned in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, the undersigned has (have) sold, assigned and transferred, and by these presents does sell, assign and transfer unto said Assignee the full and exclusive right to the said invention in the United States of America, its territories, dependencies and possessions and the entire right, title and interest in and to any and all Letters Patent(s) which may be granted therefor in the United States of America, its territories, dependencies and possessions, and if the box above is designated, in any and all foreign countries;

and to any and all divisions, reissues, continuations, conversions and extensions thereof for the full term or terms for which the same may be granted.

The undersigned agree(s) to execute all papers necessary in connection with this application and any continuing, divisional, conversion or reissue applications thereof and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

The undersigned agree (s) to execute all papers necessary in connection with any interference which may be declared concerning this application or continuation, division, conversion or reissue thereof or Letter Patent(s) or reissue patent issued thereon and to cooperate with the Assignee in every way possible in obtaining and producing evidence and proceeding with such interference.

The undersigned agree(s) to execute all papers and documents and to perform any act which may be necessary in connection with claims or provisions of the International Convention for the Protection of Industrial Property or similar agreements.

The undersigned agree(s) to perform all affirmative acts which may be necessary to obtain a grant of a valid United States of America patent(s) or a grant of a valid United States of America and any foreign patent(s) to the Assignee and to vest all rights therein hereby conveyed to said Assignee as fully and entirely as the same would have been held by the undersigned if this Assignment and sale had not been made.

The undersigned hereby authorize(s) and request(s) the Patent and Trademark Office Officials in the United States of America and in any foreign countries to issue any and all Letters Patents resulting from said application or any continuing, divisional conversion or reissue applications thereof to the said Assignee, as Assignee of the entire interest, and hereby covenants that he has (they have) the full right to convey the entire interest herein assigned, and that he has (they have) not executed, and will not execute, any agreement in conflict herewith.

The undersigned hereby grant(s) the law firm of Birch, Stewart, Kolasch & Birch, LLP the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office for recordation of this document.

The undersigned hereby covenant(s) that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment.

In witness whereof, executed by the undersigned on the date(s) opposite the undersigned name(s).

Date 5/7/2007, Name of Inventor KUO-FAN LIN
(signature)

Date _____, Name of Inventor _____
(signature)

Date _____, Name of Inventor _____
(signature)

Date _____, Name of Inventor _____
(signature)

Date _____, Name of Inventor _____
(signature)

Date _____, Name of Inventor _____
(signature)

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

**MCDERMOTT WILL & EMERY LLP**
**600 13TH STREET, N.W.**
**WASHINGTON DC 20005-3096**

COPY MAILED
FEB 12 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Kazushige Takagi, et al. | : | |
| Application No. 11/808,447 | : | DECISION GRANTING PETITION |
| Filed: June 11, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 069395-0016 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 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 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

---

[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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PATENT & TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

COPY MAILED
FEB 1 2 2010

| | |
|---|---|
| In re Application of<br>Kazushige Takagi, et al.<br>Application No. 11/808,447<br>Filed: June 11, 2007<br>Attorney Docket No. 069395-0016 | DECISION GRANTING PETITION<br>UNDER 37 CFR 1.313(c)(2) |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 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 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

---

[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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Alexandria, VA 22313-1450
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**LEE & MORSE, P.C.**
**3141 FAIRVIEW PARK DRIVE**
**SUITE 500**
**FALLS CHURCH, VA 22042**

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kyung-bae PARK, et al | : | |
| Application No. 11/808,521 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 249/516 DIV | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that all of the acts noted above have been performed. Please see the attached form PTO/SB/83 Request for Withdrawal as Attorney or Agent.

The request cannot be approved because the attorneys of record were not appointed by Customer No. 27849, as indicated.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN A. CASTELLANO, ESQ.
HARNESS, DICKEY & PIERCE
11730 PLAZA AMERICA DRIVE,
SUITE 600
RESTON, VA 20190

Attachment: PTO/SB/83 – Withdrawal of Attorney or Agent

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. |
|---|---|---|---|---|
| 11/808,547 | 06/11/2007 | Yamato Utsunomiya | 132799 | 6068 |

7590 10/27/2008

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| DESAI, NAISHADH N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2834 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/27/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
10/27/2008 NFARMER 0000164886

CHECK Refund Total: $500.00

Adjustment date: 10/27/2008 NFARMER
06/12/2007 SZEWDIE1 00000005 11808547
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Rolf Edvinsson-Albers | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7645438 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/808,556 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/11/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

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JAN 26 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Marc Labgold | : | |
| Application No. 11/808,586 | : | DECISION ON PETITION |
| Filed: June 12, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 025014.0120PTUS | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 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 Scott M. Chambers on behalf of all attorneys of record who are associated with customer No. 32042. All attorneys/agents associated with the Customer Number 32042 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

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

cc: MARC R. LABGOLD
2257 COMPASS POINT LANE
RESTON, VA 20191

cc: ANTARA BIOSCIENCES
2257 COMPASS POINT LANE
RESTON, VA 20191

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 |
|---|---|---|---|
| 11/808,586 | 06/12/2007 | Marc R. Labgold | 025014.0120PTUS |

**CONFIRMATION NO. 7336**

**POWER OF ATTORNEY NOTICE**

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

*OC000000034116004*

Date Mailed: 01/16/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2008.

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

/amwise/

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

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/18/2010

| | | |
|---|---|---|
| **Applicant** | : Tsai-Ming Lin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632251 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/808,611 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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SEP 10 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sotokawa et al. | : | |
| Application No. 11/808,635 | : | DECISION ON PETITION |
| Filed: 06/12/2007 | : | |
| Attorney Docket No. 031169K | : | |

This is a decision on the petition filed July 31, 2007, requesting that the application be accorded a filing date of June 12, 2007, with Figures 6-15 as part of the original disclosure.

On June 12, 2007, applicants filed the above-identified application. However, on July 16, 2007, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of June 12, 2007, and advising applicants that Figures 6-15 appeared to have been omitted.

In response, on July 31, 2007, applicants filed the present petition and 4 sheet(s) of drawings (including Figures 6-15). Additionally, applicants submitted a copy of applicants' returned, date-stamped postcard receipt acknowledging receipt of 6 sheet(s) of drawings in the USPTO on June 12, 2007.

Upon review of the record, Figures 6-15, deposited on June 12, 2007, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 12, 2007, included Figures 6-15, which were subsequently misplaced in the USPTO. Therefore, the application, including Figures 6-15, was complete on filing and will be granted a filing date of June 12, 2007.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby withdrawn. Accordingly, no petition fee is necessary.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of June 12, 2007,** using the 2 sheets of drawings submitted on that date, and the 4 sheets of drawings submitted with the petition on July 31, 2007, as part of the original disclosure.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,674 | 06/12/2007 | Nobuyuki Nonaka | 136105 | 7382 |

7590 08/14/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| BOST, DWAYNE D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/14/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Deposit Acct: 08/14/2009 BPOWELL 0011594200
DAB:150461 Name/Number:11808674
FC: 9204 $500.00 CR

Adjustment date: 08/14/2009 BPOWELL
06/13/2007 JADDO1 00000019 11808674
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Repln. Ref: 08/14/2009 BPOWELL 0011594200
DA#:150461 Name/Number:11808674
FC: 9204 $500.00 CR

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BIRCH STEWART KOLASCH & BIRCH, LLP
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
Kazuhiko Isogawa et al :
Application No. 11/808,685 : ON PETITION
Filed: June 12, 2007 :
Attorney Docket No. 3673-0258PUS1

This is a decision on the petition, filed July 10, 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 June 23, 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 3711 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).

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 03/15/10

**TO SPE OF** : ART UNIT 2873

**SUBJECT** : Request for Certificate of Correction for Appl. No 11/808,759: 7604349

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)**

**Should the change(s) Be made?**

**RoChaun Johnson**
**Certificates of Correction Branch**
**571 272-0470**

**Thank You For Your Assistance**

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

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

**Comments:** _____

/Ricky Mack/ 2873

**SPE** **Art Unit**

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United States Patent and Trademark Office
P.O. Box 1450
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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JUN 2 0 2008

**OFFICE OF PETITIONS**

In re Application of

**YADAV,** Tapesh et al.
Application No. 11/808,766
Filed: July 12, 2007
Attorney Docket No. **037768-0268**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 05, 2008.

The request is **APPROVED**.

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

The request was signed by Stephen Maebius on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **TAPESH YADAV**
**8724 SKYLAND DRIVE**
**LONGMONT CO 80503**

cc: **MS. DIANE MEYERS**
**PPG, INC.**
**ONE PPG PLACE**
**39TH FLOOR**
**PITTSBURGH PA 15272**

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Commissioner for Patents
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**Patton Boggs LLP**
**8484 Westpark Drive**
**Suite 900**
**Mclean, VA 22102**

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NOV 13 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Marc R. Labgold | : | |
| Application No. 11/808,785 | : | DECISION ON PETITION |
| Filed: June 13, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 025014.0122PTUS | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 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 Scott A. M. Chambers on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc R. Labgold**
**2257 Compass Point Lane**
**Reston, VA 20191**

cc: **Antra BioSciences**
**2257 Compass Point Lane**
**Reston, VA 20191**

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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 |
|---|---|---|---|
| 11/808,785 | 06/13/2007 | Marc R. Labgold | 025014.0122PTUS |

**CONFIRMATION NO. 7578**

**POWER OF ATTORNEY NOTICE**

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

*OC000000033075130*

Date Mailed: 11/13/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2008.

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

/tswilliams/

---

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

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SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

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JUL 07 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Klein et al. | : | |
| Application No. 11/808789 | : | |
| Filing or 371(c) Date: 06/13/2007 | : | |
| Attorney Docket Number: | : | |
| 1038-1294 MIS:jb | : | ON PETITION |

This is a decision on the Petition to Withdraw Notice of Abandonment Under 37 C.F.R. §1.181(a), filed May 13, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed August 1, 2007. The Notice set a two (2) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 2, 2007. A Notice of Abandonment was mailed April 10, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed via courier on October 10, 2007, including a request for a one (1) month extension of time and fee. In support of this assertion, Applicant files a copy of the reply, and a copy of Applicant's return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt by this Office of the Reply on October 10, 2007. Office finance records also reveal that the Office received the fee for a one (1) month extension of time, on October 11, 2007.

"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.

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

No petition fee has been charged and none is due.

The application will be referred to the Office of Patent Application Processing, for processing of the Reply, and for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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MATTINGLY & MALUR PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

MAY 26 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Nishimura, et al. | : | |
| Application No. 11/808,808 | : | DECISION ON PETITION |
| Filed: June13, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. H-987-03 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application No. PCT/JP99/00232, filed January 22, 1999, set forth in the 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) 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 Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2823 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. PCT/JP99/00232.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/808,808 | 06/13/2007 | 2823 | 1800 | H-987-03 | 4 | 1 |

**CONFIRMATION NO. 7861**

**CORRECTED FILING RECEIPT**

24956
MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

*OC000000036065618*

Date Mailed: 05/20/2009

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)**

Asao Nishimura, Kokubunji, JAPAN;
Syouji Syukuri, Koganei, JAPAN;
Gorou Kitsukawa, Kisarazu, JAPAN;
Toshio Miyamoto, Kokubunji, JAPAN;

**Power of Attorney:**

Gene Stockman--21021
John Mattingly--30293
Jeffrey Ketchum--31174
Daniel Stanger--32846
Scott Brickner--34553
Shrinath Malur--34663

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/873,360 06/23/2004 PAT 7,247,879
which is a DIV of 09/869,274 06/26/2001 PAT 6,831,294
which is a 371 of PCT/JP99/00232 01/22/1999

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 07/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/808,808**

**Projected Publication Date:** Not Applicable
**Non-Publication Request:** No
**Early Publication Request:** No

**Title**

SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE AND MANUFACTURE THEREOF

**Preliminary Class**

257

## 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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McDERMOTT WILL & EMERY LLP
600 13TH Street, N.W.
Washington, DC 20005-3096

JAN 2 2 2008

| | | |
|---|---|---|
| In re Application of | : | DECISION ON REQUEST TO |
| Tadashi SOTOMURA, et al | : | PARTICIPATE IN PATENT |
| Application No. 11/808811 | : | PROSECUTION HIGHWAY |
| Filed: June 13, 2007 | : | PILOT PROGRAM AND PETITION |
| Attorney Docket No. 063979-0086 | : | 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) and the preliminary amendment, filed January 17, 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 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 Kathryn Gorgos at 571 272-1012.

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.

Kathryn Gorgos
TQAS TC 1700

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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. |
|---|---|---|---|---|
| 11/808,848 | 06/13/2007 | Masahiko Harada | 132886 | 8433 |

25944 7590 07/20/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2161 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/20/2009 | PAPER |

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

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

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of: HARADA et al.
Application No. 11/808,848
Filed: June 13, 2007
Atty. Docket No.: 132886
For: DATA CHANGE DEVICE, DATA GENERATION DEVICE, RELATED METHOD, RELATED RECORDING MEDIUM, AND RELATED COMPUTER DATA SIGNAL

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 June 19, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application 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).

The request to participate in the PPH pilot program and petition failed:

A. Item 3 above. Specifically,

1) the means plus function language in all the claims allowed in the Japanese application have been replaced by other terminology. For example, in claim 1, "a storage means" has been replaced by "a storage unit", "a control means" has been replaced by "a control unit", etc. The means plus function claim language in claims has been replaced by other claim language. These changes change the scope of the claim, and hence the claims of the instant U.S. application does not substantially correspond to the same limitation in the corresponding claims in the "Decision to Grant a Patent" of the JPO application.

2) Petitioners have added claims to "a method" (for example, claim 9) in the US patent application. There are no method claims in the allowed Japanese Application. A Device claim and a method claim are different in scope, and hence the method claims of the US application do not correspond to any allowed Japanese Allowed claim.

3) Petitioners have added claims to "a medium" (for example, claim 10) storing program that executes the method steps, in the US patent application. There are no corresponding medium claims in the allowed Japanese Application. A Device claim and a medium claim comprising a program that execute the steps, are different in scope, and hence the medium claims of the US application do not correspond to any allowed Japanese Allowed claim.

4) The remarks above with respect to medium claims, also apply to claims to a computer data signal (for example, claim 11). A Device claim and a signal claim causing a computer to execute the steps, are different in scope, and hence the signal claims of the US application do not correspond to any allowed Japanese Allowed claim.

Almost all the claims of the instant U.S. application seem to differ in scope from the corresponding allowed claims (as recited in the claims correspondence table of the instant petition) of the corresponding Japanese application. The reviewer has listed a few here, as examples. There are too many differences, that it would not be possible for the reviewer to make an exhaustive list.

Applicant is requested to review 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.

The Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,884 | 06/13/2007 | Keiichi Yamaguchi | 132852 | 8137 |

7590 09/12/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| PHAM, THANH V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2894 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/12/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioma Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/15/2008 NFARMER 0000164361
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CHECK Refund Total: $500.00

Adjustment date: 09/15/2008 NFARMER
06/14/2007 SZEWDIE1 00000002 11808884
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,899 | 06/13/2007 | Shigemasa Hirooka | 132270 | 8357 |

25944 7590 01/07/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| SRIRAMAN, NIKHIL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3664 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/07/2009 | 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.

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JAN 07 2009

Oliff & Berridge, PLC
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Alexandria, VA 22320-4850

| | | |
|---|---|---|
| In re application of<br>Shigemasa Hirooka<br>Application No. 11/808,899<br>Filed: June 13, 2007<br>For: FAULT DETERMINATION DEVICE AND METHOD OF NEGATIVE PRESSURE GENERATION DEVICE | :<br>:<br>:<br>:<br>:<br>: | **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 December 23, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:
(3) Claims of the U.S. Application that sufficiently correspond to the allowable claims of the JPO application. Specifically, the inclusion of additional dependent claim 3, and 13 that due to it's dependency, lack a corresponding claim in the Japanese application; as well as an inconsistency with lines 11-13 of claim 1, which does not appear to be in Japanese claim 1, and lines 5-6 of Japanese claim 1 that appears to be lacking in claim 1, results in the claims of this application not substantially corresponding to that of the Japanese application.

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. All replies to a decision to dismiss must be submitted by EFS-Web using the document description "Petition to make special under Patent Prosecution Highway."

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 1/6/09

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FROM DIRECTOR'S OFFICE

FEB 10 2009

TECHNOLOGY CENTER 3600

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Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

| | |
|---|---|
| In re application of<br>Shigemasa Hirooka<br>Application No. 11/808,899<br>Filed: June 13, 2007<br>For: FAULT DETERMINATION DEVICE AND METHOD OF NEGATIVE PRESSURE GENERATION DEVICE | **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 renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed February 9, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action 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).

In light of renewed petition, which included a supplemental preliminary amendment that amendmed the claims to substantially correspond to the claims allowed in the JPO application, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 2/9/09

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TECHNOLOGY CENTER 2600

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of
ITO, SATORU, et al.
Application No. 11/808,901
Filed: June 13, 2007
Attorney Docket No. **132869**

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 February 4, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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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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**JOHN L. SOTOMAYOR**
**106 SPRING NEEDLE CT.**
**CARY NC 27513**

**MAILED**

MAY 25 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Austin ELIAZAR | : | |
| Application No. 11/808,941 | : | DECISION ON PETITION |
| Filed: June 14, 2007 | : | |
| Attorney Docket No. SIG-002 | : | |

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 03, 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 04, 2009.

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

**The amendment fails to place the application in condition for allowance.**

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.

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

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

See Attachment: Advisory Action

| Advisory Action Before the Filing of an Appeal Brief | Application No. 11/808,941 | Applicant(s) ELIAZAR, AUSTIN I. D. | |
|---|---|---|---|
| | Examiner FELIX E. SUAREZ | Art Unit 2857 | |

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

THE REPLY FILED 23 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-18*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857

/Felix E Suarez/
Examiner, Art Unit 2857

Continuation of 3. NOTE: The newly added limitations (underlined) to proposed amended claims have never been claimed before, and change the scope of the rejected claims. Therefore, they raise new issues.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,964 | 06/14/2007 | Kaoru Hoshide | 042525B | 8628 |

38834 7590 01/16/2009
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

| EXAMINER |
|---|
| HANSEN, JAMES ORVILLE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3637 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/16/2009 | PAPER |

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

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JAN 16 2009

Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

| | |
|---|---|
| In re Application of: | : DECISION ON PETITION |
| Kaoru Hoshide et al. | : FOR REVIEW OF |
| Serial No. 11/808,964 | : REQUIREMENT FOR |
| Filed: June 14, 2007 | : RESTRICTION |
| For: Slide Rail | : UNDER 37 CFR 1.144 |

Applicants' petition, filed on June 05, 2008, to review and withdraw of the species election requirement made on December 27, 2007 and made final in the Office Action dated March 27, 2008 as being improper, on the grounds that the examiner failed to indicate that there is s serious burden on the examiner if restriction is not required.

The petition is **DENIED** for reasons set forth below.

On December 27, 2007, the examiner issued a written election of species requirement setting forth two species of the slide as follows:
The species 1 is directed to a slide having a horizontal bent form of figures 1A-1C, 2A, 2B, 9B, 10A-10C, 12A-12C, 13A-13C and 14A-14C.

The species 2 is directed to a slide having a vertical bent form of figures 3A-3C, 4A, 4B, 7A, 7B, 8, 9A and 11.

The examiner further lists four (4) subspecies for the various configurations of the first species, and two (2) subspecies for the second species as follows:

| | |
|---|---|
| Species 1: | Subspecies A: Figs. 10A-10C |
| | Subspecies B: Figs. 12A-12C |
| | Subspecies C: Figs. 13A-13C |
| | Subspecies D: Figs. 14A-14C |
| Species 2: | Subspecies E: Figs. 7A, 7B and 8 |
| | Subspecies F: Fig. 9A |

On January 28, 2008, applicants filed a response by making an election with traverse of the species 1 and subspecies A. The traversal was that the election of species requirement is

improper because the examiner failed to indicate why there would be a serious burden on the examiner if restriction is not required. Applicants argued that the species are so closely related that a search for one of the species would encompass a search for the other species. Applicants then pointed out that the slide rails of both species 1 and 2 have been examined and patented in US patents 7,178,889 and 7,249,814. Applicants alleged that the field of search for both patents is the same. In the non-final Office Action dated March 27, 2008, the examiner made the election of species requirement final on the grounds that applicant's traversal was not persuasive because applicants failed to explain how the requirement is improper, and to show if the species are obvious variants of each other.

A review of applicants' response to the restriction requirement dated Office action dated January 28, 2008 indicates that applicants had properly and timely traversed the restriction requirement. The petition to request the withdrawal of the restriction requirement is, therefore, timely and proper.

35 USC 121 sets forth the basis for restriction requirement: "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions." MPEP § 803 states that there are two criteria for a proper requirement for restriction between patentably distinct inventions:
(A) The inventions must be independent or distinct as claimed; and
(B) There would be a serious burden on the examiner if restriction is not required.

In addition, 37 CFR 1.146 defines the criteria for species election in an application: "if an application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application." A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. See MPEP § 803.

The examiner asserted that the species and subspecies are independent and distinct because they are not capable of use together and are materially different in design in the Office Action dated December 27, 2007. A review of the specification including the drawings fails to show the connections between the species and subspecies in operation or design. Species 1 would allow a drawer to be moved along an arc with vertical displacement while species 2 would allow a drawer to be moved along an arc with horizontal or lateral displacement. This shows that the species and subspecies are clearly independent and distinct from each other according to MPEP § 806.04(b) which states that "Where species under a claimed genus are not connected in any of design, operation, or effect under the disclosure, the species are independent inventions." The examiner was correct in assessing the distinctness of the various embodiments.

As pointed out by the applicants in the response to the restriction requirement and in the petition, the examiner did not explicitly state that there would be "a serious burden" for examination if restriction is not required. The examiner should have pointed out where the burden existed when questioned by the applicant to do so. However, the position is taken that a search and examination burden is present since the varying species would require a different

field of search (e.g., searching different classes and/or employing different search queries) and prior art applicable to one invention would not likely be applicable to another invention due to the materially different design, mode of operation, function or effect of each invention as outlined in the December 27, 2007 requirement. Since the species 1 employs a different mode of operation movement relative to the species 2 embodiment, a drawer attached to the slide would move along different lines of travel. As such, a search query for species 1 would include terms directing to sequential movement along vertical displacement, while a search query for species 2 would include terms directed to movement along horizontal displacement. In addition, a search for species 1 would include class 312 subclass 334.4 along with a search in class 211, while a search for species 2 may be in class 312 subclass 334.5. These search examples would not be required for the other species embodiment. Since there are two (2) species and six (6) subspecies of the various configurations of the slide, examination of all the species and subspecies would have been a serious burden on the examiner.

Based on the facts discussed above, the restriction requirement is proper based on 35 U.S.C. 121, CFR 1.146, and MPEP § 806.04 (b), (d), (e).

SUMMARY: The petition to withdraw the restriction requirement is **DENIED**.

Any questions regarding this decision should be directed to SPE Lanna Mai at 571-272-6867.

Katherine Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

lm/sm: 1/9/09
SM

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/808,977 | 06/14/2007 | Eturo Yasuda | MNL-2635-489 | 8870 |

7590 07/30/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|
| HARM, NICKOLAS R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/30/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 08/04/2009 BPOWELL
06/15/2007 DEMMANU1 00000019 11808977
02 FC:1111 -500.00 OP

Adjustment date: 08/04/2009 BPOWELL
06/15/2007 DEMMANU1 00000019 11808977
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Refund Ref:
08/04/2009 0030072898

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Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX2021

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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. |
|---|---|---|---|---|
| 11/808,993 | 06/14/2007 | Ki Jun Kim | 2101-3354 | 8634 |

35884 7590 12/08/2008
LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

| EXAMINER |
|---|
| TROST IV, WILLIAM GEORGE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2416 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/08/2008 | PAPER |

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

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

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TECHNOLOGY CENTER 2100

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES, CA 90017

In re Application of: Ki Jun **KIM** et al.
Application No.: 11/808,993
Filed: June 14, 2007

For: METHOD OF SCHEDULING SHARED CHANNELS AND A SCHEDULER THEREFOR IN A WIRELESS PACKET COMMUNNICATION 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) pilot program and the petition under 37 CFR 1.102(d), filed September 18, 2008, to make the above-identified application special.

The petition is **GRANTED.**

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 the all office actions (excluding "Decision to Grant a Patent") 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 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

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SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Scott M. Stark | : | |
| Application No. 11/809,004 | : | ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. 5220P201 | : | |

This is a decision on the "PETITION PURSUANT TO RULE 1.10(d)", filed November 23, 2007, to accord the above application a filing date of May 31, 2007.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed via Express Mail mailing label No. EV 889888255 US on May 31, 2007, not May 30, 2007, the date accorded to the application by the PTO. Petitioner has supplied a copy of the Express Mail mailing label, bearing an "date in" entry of May 30, 2007.

37 CFR 1.10(d) states that any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Emphasis added.

Here, petitioner has submitted an Express Mail Log, showing that Express Mail mailing label No. EV 889888255 US was deposited with the USPS on May 31, 2007, prior to the last scheduled pickup for the day. Petitioner has also submitted corroborating evidence from the USPS in the form of a USPS "Track and Confirm" internet print-out indicating that Express Mail mailing label No. EV 889888255 US was accepted by the USPS on May 31, 2007.

Accordingly, it is concluded that the application was filed (i.e. deposited with the USPS as Express Mail) on May 31, 2007.

Given the basis for granting this petition, the $130 petition fee has been refunded to Deposit Account No. 02-2666, as authorized.

The application file is being forwarded to the Office of Patent Application Processing for further processing with a filing date of **May 31, 2007, not May 30, 2007.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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DEC 1 4 2007

**OFFICE OF PETITIONS**

In re Application of
SCOTT M. STARK
Application No. 11/809,005
Filed: May 31, 2007
Attorney Docket No. 5220P086

DECISION ON PETITION
UNDER 37 CFR 1.10(d)

This is a decision on the "PETITION PURSUANT TO RULE 1.10(d)," filed November 23, 2007, requesting that the above-identified application be accorded a filing date of May 31, 2007, rather than the presently accorded filing date of May 30, 2007.

The petition is **GRANTED**.

A grantable petition under 37 CFR 1.10(d) must include:

(1) The filing of a petition promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The placement of the "Express Mail" number on the mailing label of the paper(s) or fee(s) that constitutes the correspondence prior to the original mailing by "Express Mail"; and

(3) A showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. Conversely, evidence created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail") cannot be accepted under the terms of the rule.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in "Express Mail Post Office to Addressee" service on May 31, 2007, prior to the last scheduled pickup for that day as evidenced by petitioner's Express Mail log. The petition is accompanied by a copy of Express Mail label No. EV889888286US showing an alleged wrong handwritten date-in of May 30, 2007; a USPS receipt, bearing the aforementioned Express Mail label number and a date of May 31, 2007; and a Track & Confirm record from the USPS website, revealing a date of acceptance of the Express Mail package in question on May 31, 2007. The same Express Mail label number appears on the application papers, which constitute the official file record for this case.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on May 31, 2007, as shown by the copy of the USPS receipt and the Track & Confirm record submitted with the petition. Accordingly, this application is entitled to a filing date of May 31, 2007.

The $130.00 petition fee is unnecessary and will be refunded to the Deposit Account in due course.

This application is being referred to the Office of Patent Application Processing for **correction of the filing date to May 31, 2007, and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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| | | |
|---|---|---|
| In re Application of | : | |
| Stark | : | |
| Application No. 11/809,006 | : | DECISION |
| Filed: 31 May, 2007 | : | |
| Attorney Docket No. 5220P200 | : | |

This is a decision on the petition under 37 C.F.R. §1.10, filed on 23 November 2007, seeking for the above-identified application a filing date of 31 May, 2007, rather than the presently accorded filing date of 30 May, 2007.

The petition is **GRANTED**.

## BACKGROUND AND ANALYSIS

The instant application was received by the Office and accorded a filing date of 30 May, 2007.

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV889888269US, was received by the Office on 1 June, 2007, and given a filing date of 30 May, 2007;

- with the instant petition, filed on 23 November, 2007, Petitioner provided, *inter alia*, (a) a copy of the USPS Express Mail label bearing USPS Express Mail Label No. EV889888269US with the hand-written "date in" of "5/30/07," which Petitioner contends is in error, and (b) a copy of the USPS paper tape/receipt billing record bearing, inter alia,

USPS Express Mail Label No. EV889888269US, and a reflected date of "05/31/ 2007 05:02:14 PM."

Petitioner also presented a copy of the USPS Track & Confirm statement bearing USPS Express Mail Label No. EV889888269US and an indication of "ACCEPTANCE, May 31, 2007, 4:54 p.m., INGLEWOOD, CA 90311." **(This is a practice Petitioner appears to have undertaken, according to the date on the bottom of the document, on "6/1/2007," and Petitioner apparently also has found prudent and beneficial for record keeping in all Express Mail shipments to the Office.)**

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

The controlling regulations are set forth at under 37 C.F.R. §1.10.[2] A baseline requirement of any petition under the Rule is that the petition "... is filed promptly after [Petitioner] becomes aware ..." that the filing date may not be correct.

In this regard, Petitioner is reminded that the Office mailed the Filing Receipt on 3 July, 2007, and, rather than file the instant petition at that time, on 13 July, 2007, Petitioner instead simply requested a corrected filing receipt.

Although Petitioner had in hand at that time evidence (presented herein) that the USPS had incorrectly listed the "date in"—and so with the paper tape receipt and the Track and Confirm statement indicating the conflicting information initially provided by the USPS on mailing—Petitioner waited four months before filing the instant petition.

The petition is **granted**, however, the error was not that of the Office and the petition fee is not waived.

**The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 31 May, 2007, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 31 May, 2007.**

---

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

See specifically, the regulations at 37 C.F.R. §10.18.

[2] See, specifically, the regulations at 37 C.F.R. §1.10.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[1] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Steven Parkinson :
Application No. 11/809,007 : DECISION GRANTING PETITION
Filed: May 30, 2007 :
Attorney Docket No. 5220P163 :

This is a decision on the petition under 37 CFR 1.10(c), filed July 13, 2007 requesting that the above-identified application be accorded a filing date of May 31, 2007 rather than the presently accorded date of May 30, 2007.[1]

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 31, 2007 pursuant to 37 CFR 1.10. In support, applicants have submitted a copy of postal receipt which contains Express Mail No. EV889763017US. The receipt contains a date of May 31, 2007. The same Express Mail receipt number was placed on the original patent application transmittal letter of record in the official file. Petitioner has also provided an Express Mail Log.

A review of the USPS Express Mail Track and Confirm records, resulted in a finding that the package in question was in fact accepted on May 31, 2007 at the USPS. In light of the evidence the requirement that the express mail label be provided is waived *sua sponte*. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on May 31, 2007. Accordingly, the instant application is entitled to a filing date of May 31, 2007.

The petition is **granted**.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **May 31, 2007** and issuance of a corrected Filing Receipt.

[1] This petition was filed under 37 CFR 1.10(d), but is properly treated as a petition under 37 CFR 1.10(c).

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SUNNYVALE CA 94085-4040

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| In re Application of | : | |
| Steven Parkinson | : | |
| Application No. 11/809,008 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. 5220P169 | : | |

This is a decision on the "PETITION PURSUANT TO RULE 1.10(d)" filed December 3, 2007. Petitioner requests that the above-identified application be accorded a filing date of May 31, 2007, rather than the presently accorded filing date of May 30, 2007.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service prior to the last scheduled pickup on May 31, 2007, pursuant to the requirements of 37 C.F.R. § 1.10, and thus, is entitled to the date of May 31, 2007 as the filing date. In support thereof, petitioner submits the declarations of Eric Frazier; a copy of the Express Mail label showing a date-in of May 30, 2007; a copy of the USPS Track & Confirm record showing that the Express Mail package bearing label number EV889763051US was processed and accepted on May 31, 2007; a copy of the USPS receipt for payment of the Express Mail postage; and a copy of the law firm's Express Mail Log.

37 CFR § 1.10(d) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other

official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With respect to requirement (3), evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The instant petition was filed promptly within the meaning of § 1.10(d)(1). A filing receipt was mailed on June 29, 2007. In response, applicants filed a request for corrected filing receipt stating that the filing date was incorrectly entered. On July 17, 2007, applicants were advised that a copy of the Express Mail label along with a petition under 37 CFR 1.10 (or other appropriate rule) is needed to request a change to the filing date. In response, applicants filed the instant petition.

A review of a copy of the application transmittal reveals that it identifies the correspondence that constitutes the application and it includes the Express Mail mailing label number thereon. Petitioner has met § 1.10(d)(2).

Finally, as to § 1.10(d)(3), petitioner's arguments and the totality of the evidence have been considered, and it is concluded that petitioner has made an adequate showing that May 31, 2007 was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for the day. The declaration of Mr. Frazier supports a conclusion that 8:00 pm was the last scheduled pickup for the relevant Post Office and attesting to having made the deposit before that time. Mr. Frazier further states that on May 31, 2007, he made an entry in the Express Mail log reflecting the deposit on May 31, 2007. A review of Mr. Frazier's log reveals that it contains the "Express Mail" number; the attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the date and time of entry in the log; and Mr. Frazier's initials as the depositor.

Mr. Frazier does not state whether he made the entry before or after deposit. To be corroborating the entry must be made after deposit, and not in anticipation of deposit. Nonetheless, in this case, inasmuch as the log entry includes the time of deposit as stated on the Express Mail mailing label, a conclusion is supported that the log entry came into being after the deposit. Petitioner must advise the Office if this conclusion is incorrect.

It is concluded that petitioner has shown that this application is entitled to a filing date of May 31, 2007.

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

No petition fee is required. The $130 fee submitted is being refunded to petitioner's Deposit Account, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for correction of the filing date to May 31, 2007 and issuance of a corrected filing receipt.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**TRASK BRITT**
**P.O. BOX 2550**
**SALT LAKE CITY, UT 84110**

| | | |
|---|---|---|
| In re Application of | : | |
| D. Keith ROPER | : | |
| Application No. 11/809,009 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 0274-7547.1US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2007.

The request is **APPROVED**.

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

The request was signed by Allen C. Turner on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: D. KEITH ROPER
4422 FORTUNA WAY,
SALT LAKE CITY, UT 84124

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/809,009 | 05/30/2007 | D. Keith Roper | 0274-7547.1US |

**CONFIRMATION NO. 9120**

**POWER OF ATTORNEY NOTICE**

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

*OC000000030288675*

Date Mailed: 06/04/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

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

/dcgoodwyn/

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

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www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 8411

MAILED

APR 12 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Roper | : | |
| Application No. 11/809,009 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | |
| Attorney Docket No. SIMULTANEOUS | : | |
| AMPLIFICATION AND DETECTION OF | : | |
| RIBONUCLEIC ACID BE AN OPTICAL | : | |
| METHOD USING SURFACE PLASMON | : | |
| RESONANCE | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 30, 2009 for failure to timely submit a proper reply to the restriction requirement mailed May 29, 2009. The restriction requirement set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed December 10, 2009.

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

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

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received February 8, 2010.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Raj Abhyanker, LLP**
**c/o Intellevate**
**P.O. Box 52050**
**Minneapolis, MN 55402**

COPY MAILED

APR 23 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Devon Welles et al. | : | |
| Application No. 11/809,012 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. GAIN-P006 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), file December 6, 2007.

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

A review of the file record indicates that the power of attorney to Raj Abhyanker, LLP has been revoked by the assignee of the patent application on January 15, 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 571-272-2991.0

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Murabito, Hao & Barnes, LLP**
**Two North Market Street, Third Floor**
**San Jose, CA 95113**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF HARRY J. MACEY
200 PAGE MILL ROAD, SUITE 102
PALO ALTO CA 94306

COPY MAILED

JUL 07 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Junzhong Liang | : | |
| Application No. 11/809,021 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. AVE-2001 | : | FROM RECORD |
| | : | |

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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. JUNZHONG LIANG, P.D
45 KOOTENAI DRIVE
FREMONT, CA 94539

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW OFFICE OF HARRY J. MACEY
200 PAGE MILL ROAD, SUITE 102
PALO ALTO, CA 94306

COPY MAILED
SEP 2 6 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Junzhong Liang | : | |
| Application No. 11/809,021 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. AVE-2001 | : | FROM RECORD |
| | : | |

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 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 Harry Macey on behalf of all attorneys of record who are associated with customer No. 33931.

All attorneys/agents associated with the Customer Number 33931 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. JUNZHONG LIANG, PH.D
45 KOOTERNAL DRIVE
FREMONT, CA 94539

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 |
|---|---|---|---|
| 11/809,021 | 05/30/2007 | Junzhong Liang | AVE-2001 |

**CONFIRMATION NO. 9131**

**POWER OF ATTORNEY NOTICE**

33931
LAW OFFICE OF HARRY J. MACEY
200 PAGE MILL ROAD, SUITE 102
PALO ALTO, CA 94306

*OC000000032200602*

Date Mailed: 09/22/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2008.

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

/amwise/

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

PTO/SB/63 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

# TERMINAL DISCLAIMER TO ACCOMPANY PETITION

Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.
2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

| | |
|---|---|
| Signature | Date |
| Typed or Printed Name | Telephone Number |

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

# Privacy Act Statement

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

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

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

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MR. JUNZHONG LIANG, PH.D.
45 KOOTENAI DRIVE
FREMONT CA 94539

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of
Liang
Application No. 11/809,021
Filed: May 30, 2007
Attorney Docket No. N/A
For: METHODS AND APPARATUS FOR IMPROVING VISION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2010, to revive the above-identified application.

The petition is **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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed August 21, 2009, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 22, 2009. A Notice of Abandonment was mailed on March 8, 2010.

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 instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $810.00. A review of Office records indicates that petitioner has not paid this fee in full. Petitioner paid only $770.00.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). ***Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited***.

Petitioner should submit the $40.00 balance due on the petition fee promptly.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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www.uspto.gov

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED
NOV 19 2008

In re Application of
Vishnu V. Makkapati, et al.
Application No. 11/809,030
Filed: May 31, 2007
Attorney Docket No. H0006433.68329

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 20, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 20, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 21, 2008. A Notice of Abandonment was mailed on June 20, 2008.
On August 20, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

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

cc: BRADLEY A. FORREST
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOPX 2938
MINNEAPOLIS, MN 55402

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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. |
|---|---|---|---|---|
| 11/809,049 | 05/30/2007 | Tatsuyuki Takahashi | SONYJP 3.0-1381 | 9478 |

7590 09/10/2009
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

| EXAMINER |
|---|
| CONSILVIO, MARK J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2872 | . |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/10/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
06/04/2007 SDENBOB3 00000010 121095 11809049
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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**DRINKER BIDDLE & REATH**
**ATTN: INTELLECTUAL PROPERTY GROUP**
**ONE LOGAN SQUARE**
**18TH AND CHERRY STREETS**
**PHILADELPHIA PA 19103-6996**

**COPY MAILED**

AUG 2 3 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **COOPER**, et al. | : | |
| Application No. 11/809,064 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **35669-0130-00-US** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the declaration of inventor B. William Cooper, 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 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 accorded "special" status when the pre-examination processing is complete.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/809,083 | 05/31/2007 | Kermit B. Bohning | 64348A US | 8672 |

25212 7590 02/06/2009
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

| EXAMINER |
|---|
| IBRAHIM, MEDINA AHMED |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1638 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/06/2009 | PAPER |

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

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

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DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

FEB 0 6 2009

In re Application of:
Kermit B. Bohning
Serial No.: 11/809,083
Filed: May 31, 2007
Attorney Docket No.: **64348A US**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed January 30, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that Declaration submitted to the Patent Office on January 30, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

# UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 11/809,083 | 05/31/2007 | Kermit B. Bohning | 64348A US | 8672 |

25212 7590 11/09/2009
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

| EXAMINER |
|---|
| IBRAHIM, MEDINA AHMED |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1638 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/09/2009 | 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 0 3 2009

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

| | |
|---|---|
| In re Application of: | : |
| Kermit B. Bohning | : PETITION DECISION |
| Serial No.: 11/809,083 | : |
| Filed: May 31, 2007 | : |
| Attorney Docket No.: **64348A US** | |

This is in response to the renewed petition under 37 CFR § 1.59(b), filed October 26, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration submitted to the Patent Office on January 30, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kermit B. Bohning | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632991 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/809,083 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/31/2007 | : 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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Alexandria, VA 22313-1450
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**MALLOY & MALLOY, P.A.**
**2800 S.W. THIRD AVENUE**
**HISTORIC CORAL WAY**
**MIAMI, FL 33129**

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FEB 06 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Maurice COHEN | : | |
| Application No. 11/809,085 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1.533.07 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 31, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**PETERS VERNY , L.L.P.**
**425 SHERMAN AVENUE**
**SUITE 230**
**PALO ALTO CA 94306**

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SEP 02 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **LAKE,** Sharon et al. | : | |
| Application No. 11/809,094 | : | DECISION ON PETITION |
| Filed: May 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **5011.01-1** | : | 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 February 15, 2008.

The request is **APPROVED**.

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

The request was signed by Hana Verny on behalf of all attorneys of record who are associated with customer No. 23308. All attorneys/agents associated with the Customer Number 23308 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the third named inventor Susan Schmitt at the address indicated below. There is an outstanding Office action mailed June 24, 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: **SUSAN M. SCHMITT**
**11565 OLD RANCH LANE**
**LOS ALTOS HILLS CA 94024**

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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**MICHAEL G PETIT**
**123 W PADRE ST., SUITE F**
**P O BOX 91929**
**SANTA BARBARA CA 93190**

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AUG 16 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Albert Murillo | : | |
| Application No. 11/809,142 | : | DECISION ON PETITION |
| Filed: March 30, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 07MUR1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 30, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/809,157 | 05/31/2007 | F. William Hersman | 09815/70988NP | 7169 |

26869 7590 07/15/2010
DEVINE, MILLIMET & BRANCH, P.A.
111 AMHERST STREET
BOX 719
MANCHESTER, NH 03105

| EXAMINER |
|---|
| STAFFORD, PATRICK |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2828 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/15/2010 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 06082010

DEVINE, MILLIMET & BRANCH, P.A.
111 AMHERST STREET
BOX 719
MANCHESTER, NH 03105

| | | |
|---|---|---|
| Appl No.: 11/809,157 | : | |
| Inventor: Hersman et al. | : | **DECISION ON PETITION** |
| Filed: May 31, 2007 | : | **UNDER** *37 CFR 1.48(a)* |
| For: SPECTRAL-NARROWING DIODE LASER ARRAY SYSTEM | : | |

This is a decision on the applicant's "Correction of inventorship in a Patent Application" originally filed under 37 CFR 1.48(a), filed Begruary 27, 2008. The applicant requests that the names of Jan Distelbrink and Hongguo Zhu be added to the list of inventors as originally filed, namely, F. William Hersman.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48(a), the petition is hereby **granted**.

The application is being forward to Technology Center Support Staff to identify the inventors as:

F. William Hersman; Jan Distelbrink; and Hongguo Zhu,

in the PALM database and to mail a corrected filing receipt.

Minsun Harvey

Supervisory Primary Examiner AU 2828

Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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**LAW OFFICES OF MIKIO ISHIMARU**
**333 W. EL CAMINO REAL, SUITE 330**
**SUNNYVALE, CA 94087**

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DEC 3 1 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Ruslan **MESHENBERG** | : | |
| Application No. 11/809,159 | : | NOTICE UNDER 37 CFR 1.28(C) |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. **59-013** | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

Docket No.: 59-013 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| Applicant(s): | Ruslan Meshenberg | Confirmation No.: | 7179 |
| Application No.: | 11/809,159 | Group Art Unit: | 2618 |
| Filed: | 5/31/2007 | Examiner: | Unknown |
| Title: | MOBILE BATTERY MANAGEMENT SYSTEM | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PAPER FILED UNDER 37 CFR 1.28(c) and PAYMENT OF DEFICIENCY OWED**

Sir/Madam:

Under 37 CFR 1.28(c) we hereby request that small entity status be withdrawn for the above-referenced application. After small entity fees were paid in good faith for the fees listed below, it was later discovered that such status as a small entity was no longer valid. We authorize payment of the remaining amount owed.

| | Fees Paid | (Fee Code) | Date Paid | Large Entity Fee | Deficiency Owed Amount |
|---|---|---|---|---|---|
| Basic filing fee – Utility: | $150 | (2011) | 5/31/2007 | $310 | $160 |
| Utility Search Fee: | $250 | (2111) | 5/31/2007 | $510 | $260 |
| Utility Examination Fee: | $100 | (2311) | 5/31/2007 | $210 | $110 |
| Claims in excess of 20: | $75 | (2202) | 5/31/2007 | ~~$150~~ 50 | ~~$75~~ 25 |
| TOTAL: | $575 | | | $1180 | $605 |

**TOTAL DEFICIENCY OWED AMOUNT: $605**

☒ Please *ONLY* charge the **TOTAL DEFICIENCY OWED AMOUNT** due in connection with the filing of this paper to Deposit Account No. 50-0374.

Respectfully submitted,

Mikio Ishimaru

Mikio Ishimaru
Reg. No. 27,449
October 1, 2008

Law Offices of Mikio Ishimaru
333 W. El Camino Real, Suite 330
Sunnyvale, CA 94087-2554

Adjustment date: 01/02/2009 LDIEP1
06/04/2007 HNGUYEN1 00000005 11809159
01 FC:2011 -150.00 OP
02 FC:2111 -250.00 OP
03 FC:2311 -100.00 OP
04 FC:2202 -75.00 OP

CERTIFICATE OF FAXING/TRANSMISSION (37 C.F.R.1.8a)

I hereby certify that this correspondence is on the date shown below being:

☒ Submitted to the: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 via Electronic Filing System

01/02/2009 LDIEP1 00000002 500374 11809159
01 FC:1011 310.00 OP
~~02 FC:1111~~ 245.00 DA 265.00 OP
03 FC:1311 210.00 DA
04 FC:1202 50.00 DA

Date: October 1, 2008 Signature

Joan Gunawan

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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**HONEYWELL INTERNATIONAL INC.**
**PATENT SERVICES**
**101 COLUMBIA ROAD**
**P O BOX 2245**
**MORRISTOWN NJ 07962-2245**

**MAILED**

MAY 18 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,658,330 | : | |
| Issued: February 9, 2010 | : | |
| Application No.: 11/809,174 | : | LETTER RE |
| Filed: May 31, 2007 | : | WITHDRAWAL OF PAPER |
| Attorney Docket No.: H28793 | : | |

This letter is in response to the Request, filed February 22, 2010, that (1) urges that the previously filed Request on January 23, 2009 to correct a misspelling of applicant's name is no longer applicable, and (2) requests that no action be taken in response to the January 23, 2009 Request.

The February 22, 2010 Request is **GRANTED**.

Petitioner contends that the request to correct the misspelling of applicant's name is not applicable since the granting of a Request for Amendment of Inventorship under 37 CFR 1.48(b) filed March 30, 2007, removed the applicant from the application. Therefore, the petition filed January 23, 2009 is unnecessary in view of the decision which was rendered on August 31, 2009. Accordingly, the United States Patent and Trademark Office will disregard the January 23, 2009 Request and take no further action in response thereto.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this matter should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Thomas J. Perkowski
22 Thorndal Circle
Darien, Connecticut 06820

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY 13 2010

OFFICE OF PETITIONS

LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY CA 92708

In re Application of

Frank P. Forbath .
Application No. 11/809,187
Filed: May 31, 2007
Attorney Docket No. FForbath.PrayerCounter

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 22, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's driver's 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 3715 for action on the merits commensurate with this decision.

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

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ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 12 2009

OFFICE OF PETITIONS

Applicant: Banastre, et al.
Appl. No.: 11/809,191
Filing Date: May 31, 2007
Title: ADENOVIRUSES MUTATED IN THE VA GENES FOR CANCER TREATMENT
Attorney Docket No.: 16596-049002
Pub. No.: US 2008/0089864 A1
Pub. Date: April 17, 2008

This is a decision on the request entitled "Request for Corrected Publication and Statement of Substitute Specification under 37 CFR 1.125", received on May 15, 2008 which appears to be a request to amend the publication to correct the specification by republishing it with an amended specification.

The request is DISMISSED.

A request for Republication of an application is normally requested under Applicants request is late under 37 CFR 1.221 (b) or (a).

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 instant request to republish the application with the substitute specification is dismissed as the error is not a material error made by the Office under 37 CFR 1.221(b).

As to the republication request under 37 CFR 1.221(a) applicants have failed to meet the requirements. A copy of the application including the Application Data Sheet was not filed as a "Pre-Grant Publication" in compliance with the electronic filing system requirements. 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

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

application 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 may be found on the link below:

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

Applicant paid the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i)($130.00). The publication fee ($300.00) will be refunded to applicants' deposit account Deposit account 06-1050.

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

Attorney's Docket No.: 16596-049002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bonastre and Piqueras
Serial No. : 11/809,191
Filed : May 31, 2007
Art Unit : Unknown
Examiner : Unknown
Title :ADENOVIRUSES MUTATED IN THE VA GENES FOR CANCER TREATMENT

Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CORRECTED PUBLICATION AND STATEMENT OF SUBSTITUTE SPECIFICATION UNDER 37 C.F.R. § 1.125

Applicant hereby requests a Corrected Publication. This request is being filed within two months of the publication of the above-identified application, which Published on April 17, 2008 as Publication Number US-2008-0089864-A1.

Pursuant to 37 C.F.R. § 1.125, Applicants submit a substitute specification encompassing changes being made to the specification filed on May 31, 2007. No new matter has been introduced by this substitution to the specification filed on May 31, 2007. Applicants request entry and publication of the substitute specification. Also attached is a marked-up version of the specification showing the changes that have been made. Specifically, the paragraph on page 9, lines 18-20 has been deleted.

The required publication fee set forth in 37 C.F.R. § 1.18(d) and processing fee set forth in 37 C.F.R. § 1.17(i) are being concurrently herewith on the Electronic Filing System by way of Deposit Account authorization. Please apply any other charges that may be required for this request to Deposit Account No. 06-1050.

Respectfully submitted,

Date: May 15, 2008

Tiffany B. Salmon, Ph.D.
Reg. No. 55,589

1180 Peachtree Street, N.E., 21st Floor
Atlanta, GA 30309
Telephone: (404) 892-5005
Facsimile: (404) 892-5002
12056837.doc

Adjustment date: 02/11/2009 CKHLOK
05/16/2008 INTEFSW 00001570 061050 11809191
01 FC:1504 300.00 CR

**UNITED STATES PATENT & TRADEMARK OFFICE**
**Washington, D.C. 20231**

**REQUEST FOR PATENT FEE REFUND** 11/809,191

1 Date of Request: 2/10/09

2 Serial/Patent # ~~11/869,172~~

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
|---|---|---|---|---|
| | Filing | | | $ 300 |
| | Amendment | | | $ |
| | Extension of Time | | | $ |
| | Notice of Appeal/Appeal | | | $ |
| | Petition | | | $ |
| | Issue | | | $ |
| | Cert of Correction/Terminal Disc. | | | $ |
| | Maintenance | | | $ |
| | Assignment | | | $ |
| ✓ | Other Pub Fee | | | $ |

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

| | |
|---|---|
| | Treasury Check |
| | Credit Deposit A/C #: |

9 06--1050

10 REASON:

| | |
|---|---|
| | Overpayment |
| | Duplicate Payment |
| ✓ | No Fee Due (Explanation): |

Request not granted

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Mark Polutta TITLE: Legal Advisor

SIGNATURE: [signature] PHONE: 2-7709

OFFICE: OPLA

**********

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APPROVED: CKhok DATE: 2/11/09

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**Refund Branch**
**Crystal Park One, Room 802B**

FORM PTO 1577
(01/90)

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Paper No.

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

**MAILED**

MAR 29 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Coffey et al. | : | |
| Application No. 11/809,195 | : | LETTER REGARDING |
| Filed: May 30, 2007 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. | : | |
| 16596-004004 | : | |

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed on December 16, 2009. Applicants request that the patent term adjustment for the application be reviewed for accuracy. The request is treated as a request pursuant to applicants' duty of good faith and candor to the Office.

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 0 days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On October 20, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 47 days (47 days of Office delay and 0 days of applicant delay).

Applicants assert that the PTA appears to be longer than appropriate. Specifically, applicants request review of the patent term adjustment in connection with the filing of a response, filed on December 12, 2007, to the Notice to File Missing Parts of Nonprovisional Application.

Upon review, applicants are correct. On July 13, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed. On December 12, 2007, three (3) months and 60 days after the

date the day after the date the Notice was mailed, a reply was filed. Accordingly, a period of reduction for applicant delay of 60 days should have been assessed pursuant to 37 CFR 1.704(b).

In view thereof, the determination of PTA at the time of the mailing of the Determination of Patent Term Adjustment is zero (0) days (47 days of PTO delay, reduced by 60 days of Applicant delay). To the extent that applicants are aware of any other specific error in the PTA calculation, applicants should so advise the Office.

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Encl: Revised PALM Calculation

Day : Friday
Date: 3/26/2010

# PALM INTRANET

Time: 08:24:39

| PTA Calculations for Application: 11/809195 | | | |
|---|---|---|---|
| Application Filing Date: | 05/30/2007 | PTO Delay (PTO): | 47 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 0 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 0 |
| PTO Delay Adjustment: | -47 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 97 | 03/26/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 47 | |
| 82 | 10/20/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 81 | 10/14/2009 | ISSUE REVISION COMPLETED | | | |
| 80 | 10/14/2009 | DOCUMENT VERIFICATION | | | |
| 79 | 10/14/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 78 | 10/14/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 77 | 10/13/2009 | NOTICE OF ALLOWABILITY | | | |
| 72 | 08/20/2009 | DATE FORWARDED TO EXAMINER | | | |
| 71 | 06/30/2009 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 70 | 06/30/2009 | TERMINAL DISCLAIMER FILED | | | |
| 69 | 07/21/2009 | PARALEGAL TD ACCEPTED | | | |
| 68 | 05/21/2009 | ELECTRONIC REVIEW | | | |
| 67 | 05/21/2009 | EMAIL NOTIFICATION | | | |
| 66 | 05/21/2009 | MAIL NON-FINAL REJECTION | | | |
| 65 | 05/18/2009 | NON-FINAL REJECTION | | | |
| 64 | 02/05/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 63 | 02/05/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 62 | 03/27/2009 | PARALEGAL TD ACCEPTED | | | |
| 61 | 03/27/2009 | PARALEGAL TD ACCEPTED | | | |
| 60 | 03/27/2009 | PARALEGAL TD ACCEPTED | | | |
| 59 | 03/27/2009 | PARALEGAL TD ACCEPTED | | | |
| 58 | 03/26/2009 | PARALEGAL TD NOT ACCEPTED | | | |
| 57 | 02/05/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 0 | 55 |

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|---|---|---|---|---|---|
| 56 | 03/25/2009 | DATE FORWARDED TO EXAMINER | | | |
| 55 | 02/05/2009 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 54 | 02/05/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 53 | 02/05/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 52 | 01/12/2009 | ELECTRONIC REVIEW | | | |
| 51 | 01/12/2009 | EMAIL NOTIFICATION | | | |
| 50 | 01/12/2009 | MAIL NON-FINAL REJECTION | | | |
| 49 | 01/05/2009 | NON-FINAL REJECTION | | | |
| 48 | 11/22/2008 | DATE FORWARDED TO EXAMINER | | | |
| 47 | 11/04/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 46 | 09/15/2008 | REFERENCE CAPTURE ON IDS | | | |
| 45 | 09/15/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 44 | 04/14/2008 | REFERENCE CAPTURE ON IDS | | | |
| 43 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 42 | 09/16/2008 | ELECTRONIC REVIEW | | | |
| 41 | 09/15/2008 | EMAIL NOTIFICATION | | | |
| 40 | 09/15/2008 | MAIL NON-FINAL REJECTION | 47 | | -1 |
| 39 | 08/18/2008 | NON-FINAL REJECTION | | | |
| 33 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 32 | 02/26/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 31 | 12/13/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 30 | 05/30/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 27 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 26 | 02/26/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 24 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 23 | 03/27/2008 | PG-PUB ISSUE NOTIFICATION | | | |
| 22 | 02/26/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 21 | 01/10/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
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| 20 | 01/07/2008 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 19 | 01/02/2008 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 18 | 12/13/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 12/12/2007 | PRELIMINARY AMENDMENT | | | |
| 16 | 05/30/2007 | REFERENCE CAPTURE ON IDS | | | |
| 15 | 05/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 12/31/2007 | APPLICATION DISPATCHED FROM OIPE | | | |
| 13 | 12/18/2007 | SENT TO CLASSIFICATION CONTRACTOR | | | |
| 12 | 12/18/2007 | FILING RECEIPT - UPDATED | | | |
| 11 | 12/12/2007 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 10 | 05/30/2007 | CLAIM PRELIMINARY AMENDMENT | | | |
| 9 | 12/12/2007 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 8 | 12/13/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 7 | 07/13/2007 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 6 | 07/06/2007 | CLEARED BY L&R (LARS) | | | |
| 5 | 06/20/2007 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 4 | 06/20/2007 | CASE CLASSIFIED BY OIPE | | | |
| 3 | 06/19/2007 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 2 | 05/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 1 | 06/01/2007 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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

Back to OASIS | Home page

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

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SEP 26 2007

**OFFICE OF PETITIONS**

In re Application of
Peter J. Marsico et al.
Application No. 11/809,200
Filed: May 31, 2007
Attorney Docket No. 1322/280/2

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed September 4, 2007 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed without an executed oath or declaration. Accordingly, on July 2, 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 joint inventors except Cory A. Grant and the instant petition under 37 CFR 1.47(a) were filed. The petition argues that joint inventor Grant 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. Grant and that to date he has not returned an executed oath or declaration.

Petitioner's deposit account no. 50-0426 has been charged in the amount of $200.00 for the petition fee under 37 CFR 1.47.

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 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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LAW OFFICE OF ERIC B. ALSPAUGH
26895 ALISO CREEK ROAD SUITE B 223
ALISO VIEJO CA 92656

MAILED

JUL 17 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
David Ybarrola :
Application No.: 11/809,211 :
Filed: May 30, 2007 :
Attorney Docket No:1387-PA01 :

This is a decision on the petition under 37 CFR §1.137(b), June 17, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 30, 2008. The notice set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on December 31, 2008.

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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional 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 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(c).

The instant petition does not satisfy the requirements of item (2) above.

The fee for the instant petition is $810.00, yet only $770.00 was able to be charged to the credit card presented. To be considered grantable, the renewed petition must be accompanied by an additional $40.00.

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

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

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

Telephone inquiries concerning this matter may 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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LAW OFFICE OF ERIC B. ALSPAUGH
26895 ALISO CREEK ROAD SUITE B 223
ALISO VIEJO CA 92656

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of
David Ybarrola
Application No.: 11/809,211
Filed: May 30, 2007
Attorney Docket No:1387-PA01

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 30, 2008. The notice set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on December 31, 2008.

The amendment filed June 17, 2009, is noted.

The application is being forwarded to Technology Center 3600, GAU 3636 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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**OFFICE OF PETITIONS**

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

| | |
|---|---|
| In re Application of | : |
| Tupinier, et al. | : DECISION GRANTING STATUS |
| Application No. 11/809,227 | : UNDER 37 CFR 1.47(a) |
| Filed: May 31, 2007 | : |
| Atty. Dkt. No.: DP-315470 | : |
| For: HIGH RESOLUTION POSITION | : |
| CODER | : |

This decision is in response to the petition under 37 CFR 1.47(a), filed October 15, 2007.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventors Marroux and Kress have refused to execute the declaration for the above-identified application after having been presented with the complete 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.

The required petition fee ($200.00) has been charged to petitioners' deposit account, as authorized.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Olivier R. Marroux
32 rue des Augustines
Biard, France, 86580

| | |
|---|---|
| In re Application of | : |
| Tupinier, et al. | : LETTER |
| Application No. 11/809,227 | : |
| Filed: May 31, 2007 | : |
| Atty. Dkt. No.: DP-315470 | : |
| For: HIGH RESOLUTION POSITION | : |
| CODER | : |

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

Bernard Kress
1 rue Saint Bernard
Neubourg, France, 67350

| | |
|---|---|
| In re Application of | : |
| Tupinier, et al. | : LETTER |
| Application No. 11/809,227 | : |
| Filed: May 31, 2007 | : |
| Atty. Dkt. No.: DP-315470 | : |
| For: HIGH RESOLUTION POSITION | : |
| CODER | : |

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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**BLAKELY SOKOLOFF TAYLOR & ZAFMAN**
**1279 OAKMEAD PARKWAY**
**SUNNYVALE CA 94085-4040**

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AUG 2 1 2007

**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Parkinson, Steven W. :
Application No. 11/809,234 :
Filed: May 31, 2007 :
Attorney Docket No. 5220.P164 :

This is a decision on the petition filed July 25, 2007, requesting that the above-identified application be accorded a filing date of May 31, 2007, rather than the presently accorded date of May 30, 2007. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 31, 2007, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. EV 889763003 US as having a receipt date of May 31, 2007. Applicant has also submitted a copy of their Express Mail Log. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact "enroute" on May 31, 2007 at 4:50 p.m. at the Inglewood, CA USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on May 31, 2007. Accordingly, the instant application is entitled to a filing date of May 31, 2007 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of May 31, 2007, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2876 for examination in due course.

Telephone inquiries concerning this matter may be directed Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

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**RED HAT/BSTZ**
**BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP**
**1279 OAKMEAD PARKWAY**
**SUNNYVALE CA 94085-4040**

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| | | |
|---|---|---|
| In re Application of | : | |
| Emmanuel Bernard, et al. | : | |
| Application No. 11/809,268 | : | DECISION GRANTING PETITION |
| Filed: May 30, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 5220P180 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 3, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on February 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2163 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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| | | |
|---|---|---|
| In re Application of | : | |
| Nathan G. Kinder | : | |
| Application No. 11/809273 | : | |
| Filing or 371(c) Date: 05/31/2007 | : | DECISION |
| Attorney Docket Number: | : | ON PETITION |
| 5220P187 | : | |

This is a decision on the "Petition Pursuant to 37 C.F.R. § 1.10(d))", filed December 3, 2007, requesting that the above-identified application be accorded a filing date of May 31, 2007, rather than the presently accorded filing date of May 30, 2007.

Petitioner alleges that the application was deposited in Express Mail service on May 31, 2007. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that May 31, 2007, was the date the correspondence was deposited Express Mail Post Office to Addressee.

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

This application file will be forwarded to the Office of Patent Application Processing for correction of the filing date to May 31, 2007, and for the mailing 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

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United States Patent and Trademark Office
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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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| | | |
|---|---|---|
| In re Application of | : | |
| Scott M. Stark | : | |
| Application No. 11/809285 | : | |
| Filing or 371(c) Date: 05/31/2007 | : | DECISION |
| Attorney Docket Number: | : | ON PETITION |
| 5220P199 | : | |

This is a decision on the "Petition Pursuant to 37 C.F.R. § 1.10(d))", filed December 3, 2007, requesting that the above-identified application be accorded a filing date of May 31, 2007, rather than the presently accorded filing date of May 30, 2007.

Petitioner alleges that the application was deposited in Express Mail service on May 31, 2007. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that May 31, 2007, was the date the correspondence was deposited Express Mail Post Office to Addressee.

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

This application file will be forwarded to the Office of Patent Application Processing for correction of the filing date to May 31, 2007, and for the mailing 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

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Paper No.

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

MAILED
MAR 29 2010
OFFICE OF PETITIONS

In re Patent No. 7,608,257 :
Coffey et al. :
Application No. 11/809,293 : LETTER REGARDING
Issue Date: October 27, 2009 : PATENT TERM ADJUSTMENT
Filed: May 31, 2007 :
Atty Docket No. 16596-018002 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed on December 16, 2009. Patentee requests that the patent term adjustment for the application be reviewed for accuracy. The request is treated as a request pursuant to patentee's duty of good faith and candor to the Office.

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of sixteen (16) days.

Patentee asserts that the PTA appears to be longer than appropriate. Specifically, patentee requests review of the patent term adjustment in connection with the filing of a response to the Notice to File Missing Parts of Nonprovisional Application mailed on July 2, 2007.

Upon review, patentee is correct. On July 2, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed. On October 23, 2007, three (3) months and 21 days after the day after the date the Notice was mailed, a reply was filed. Accordingly, a period of reduction for applicant delay of 21 days should have been assessed pursuant to 37 CFR 1.704(b).

In view thereof, the determination of PTA at the time of the issuance of the patent is sixteen (16) days (46 days of PTO delay, reduced by 30 (9 + 21) days of Applicant delay). To the

extent that patentee is aware of any other specific error in the PTA calculation, patentee should so advise the Office.

As the instant letter was submitted to advise the Office of an error in Patentee's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged. The Office thanks Patentee for their good faith and candor in bringing this matter to the attention of the Office.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application file is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a Certificate of Correction indicating that the term of the above-identified patent is extended or adjusted by SIXTEEN (16) days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Encl: Copy of DRAFT Certificate of Correction

Cc:

FISH & RICHARDSON, PC
3200 RBC PLAZA
60 SOUTH SIXTH ST
MINNEAPOLIS MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,608,257 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : Coffey et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 37 days.

Delete the phrase "by 37 days" and insert – by 16 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Twerdochlib | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604399 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/809,299 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 05/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

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JUL 13 2007

**OFFICE OF PETITIONS**

In re Application of
Kasman E. Thomas et al.
Application No. 11/809,300
Filed: August 31, 2007
Attorney Docket No. 1363-034

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47 on May 31, 2007 which is treated under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on August 31, 2006, naming Kasman E. Thomas and Lyndon A. Washington as joint inventors. The oath or declaration filed with the application was signed only by joint inventor Washington and, the instant petition filed with the application, seeks status under 37 CFR 1.47, and claims that joint inventor Thomas refuses to join in the application.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, two inventors have been named but the oath or declaration is missing the signature of only one of the named inventors, thus, this petition will be treated under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to the non-signing inventor at his last known email address and that he has responded, by email, expressly declining to review the patent application and to participate in the patenting

process. The fact that he has been forwarded the application papers and has not to date returned any executed documents, we will construe his actions to be that of a refusal.

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

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

This matter is being referred to 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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OFFICE OF PETITIONS

**TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.**
**1300 EAST NINTH STREET, SUITE 1700**
**CLEVELAND OH 44114**

| | | |
|---|---|---|
| In re Application of | : | |
| Leanza, Anthony S. | : | DECISION ON PETITION |
| Application No. 11/809,311 | : | TO WITHDRAW |
| Filed: May 31, 2007 | : | FROM RECORD |
| Attorney Docket No. ASL-8473 | : | |

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 1, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40.

Further, 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. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Finally, the Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and *how* he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were not appointed via Customer Number. Therefore, requesting to withdraw via Customer Number is not the appropriate course.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed January 25, 2005 that requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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**TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.**
**1300 EAST NINTH STREET, SUITE 1700**
**CLEVELAND OH 44114**

**MAILED**

MAY 24 2010

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| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Leanza, Anthony S. | : | TO WITHDRAW |
| Application No. 11/809,311 | : | FROM RECORD |
| Filed: May 31, 2007 | : | |
| Attorney Docket No. ASL-8473 | : | |

This is a decision on the second Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 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 Barry L. Tummino on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Anthony S. Leanza, at the address indicated below.

There is an outstanding Office action, mailed January 5, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ANTHONY S. LEANZA
27396 SPRAGUE ROAD
OLMSTED TOWNSHIP, OH 44138

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ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

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AUG 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Jacob Ranis Stokholm Andersen | : | |
| Application No. 11/809,321 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | TO WITHDRAW |
| Attorney Docket No. DCL-06-1126R | : | FROM RECORD |
| | : | |

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 30, 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 T. Daniel Christenbury on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. JACOB R. S. ANDERSEN
DRACCO COMPANY LIMITED
UNIT 1201-05
12/F, STELUX HOUSE
NO. 698 PRINCE EDWARDS ROAD EAST
SAN PO KONG, KOWLOON
HONG KONG

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/809,321 | 05/31/2007 | Jacob Ranis<br>Stokholm Andersen | DCL-06-1126R |

**CONFIRMATION NO. 9002**

**POWER OF ATTORNEY NOTICE**

35811
IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

*OC000000031488332*

Date Mailed: 08/11/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/30/2008.

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

/amwise/

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

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**NELSON MULLINS RILEY & SCARBOROUGH LLP**
**IP DEPARTMENT**
**100 NORTH TRYON STREET**
**42ND FLOOR**
**CHARLOTTE, NC 28202-4000**

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| | | |
|---|---|---|
| In re Application of | : | |
| Garries et al. | : | DECISION ON PETITION |
| Application No. 11/809,325 | : | TO WITHDRAW |
| Filed: May 31, 2007 | : | FROM RECORD |
| Attorney Docket No. 41832/5351 | : | |

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

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney was revoked by the assignee of the patent application on August 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

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M/C 480-410-202
PO BOX 5052
TROY MI 48007

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JAN 0 8 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| TUPINIER, MARROUX, NDAO and KRESS | : | DECISION ACCORDING STATUS |
| Application No. 11/809336 | : | UNDER 37 CFR 1.47(a) |
| Filed: 05/31/2007 | : | |
| Attorney Docket No. DP-315471 | : | |
| Title: OPTICAL ROTATION COUNTER | : | |

This is in response to the petition under 37 CFR 1.47(a), filed Monday, October 15, 2007. Petitioners obtained an extension of time within the first month. Accordingly, the petition is filed timely.

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

Petitioners showed that the non-signing inventors constructively refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, petitioners established that they mailed complete copies of the application papers to the last known addresses of the non-signing inventors; however, they did not respond to the request to sign the declarations.

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 present petition. Notice of the filing of this application will also be published in the Official Gazette.

The $200.00 petition fee will be charged to the Deposit Account as authorized.

The matter is being referred to the Office of Initial Patent Examination for further processing.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Bernard Kress
1, rue Saint Bernard
Neubourg, France, 67350

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JAN 08 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| TUPINIER, MARROUX, NDAO and KRESS | : | |
| Application No. 11/809336 | : | LETTER |
| Filed: 05/31/2007 | : | |
| Attorney Docket No. DP-315471 | : | |
| Title: OPTICAL ROTATION COUNTER | : | |

Dear Mr. Kress:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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Oliver R. Marroux
32, rue des Augustines
Biard, France, 86580

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| | | |
|---|---|---|
| In re Application of | : | |
| TUPINIER, MARROUX, NDAO and KRESS | : | |
| Application No. 11/809336 | : | LETTER |
| Filed: 05/31/2007 | : | |
| Attorney Docket No. DP-315471 | : | |
| Title: OPTICAL ROTATION COUNTER | : | |

Dear Mr. Marroux:

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

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LEVISOHN, BERGER, LLP
11 BROADWAY, SUITE 615
NEW YORK, NY 10004

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MAR 3 0 2009

**OFFICE OF PETITIONS**

In re Application of
Craig M. Whitehouse et al
Application No. 11/809,349
Filed: May 31, 2007
Attorney Docket No. 840.127

ON PETITION

This is a decision on the petition, filed March 4, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

A review of the file record shows that a Request to Rescind was filed on March 4, 2009. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b). A courtesy copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) is enclosed.

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

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Peter L. Berger
Levisohn Berger LLP
61 Broadway, 32nd Floor
New York, NY 10006

Attachment: blank copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) form

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OFFICE OF PETITIONS

In re Application of
Craig M. Whitehouse et al
Application No. 11/809,349
Filed: May 31, 2007
Attorney Docket No. 840.127

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed May 11, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 28, 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 accompanies this decision on petition.

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

This application is being referred to Technology Center AU 2881 for further processing.

Irvin Dingle
Petition 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 |
|---|---|---|---|
| 11/809,349 | 05/31/2007 | Craig M. Whitehouse | 840.127 |

**CONFIRMATION NO. 9510**

4617
LEVISOHN, BERGER , LLP
11 BROADWAY , Suite 615
NEW YORK, NY 10004

**NONPUBLICATION RESCISSION LETTER**

*OC000000036200271*

Date Mailed: 05/28/2009

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/03/2009.

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".

/idingle/

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

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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. |
|---|---|---|---|---|
| 11/809,353 | 05/30/2007 | Philip Hass | GNE-0204 | 9511 |

35489 7590 09/01/2009
GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025

| EXAMINER |
|---|
| NOAKES, SUZANNE MARIE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1656 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/01/2009 | 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

Martin D. MOYNIHAN
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

| | |
|---|---|
| In re Application of<br>Amram Mor, Nesher et al<br>Serial No.: 11/500461<br>Filed: August 8, 2006<br>Attorney Docket No.: 32414 | :<br>: DECISION ON PETITION TO<br>: ACCEPT COLOR<br>DRAWINGS/PHOTOGRAPHS |

This is a decision on the petition filed on October 18, 2006 to accept color drawings/photographs under 37 CFR 1.84(a)(2).

A review showing that all requirements are met.

The petition to accept color drawings/photographs is **GRANTED**.

Cecilia Tsang

Cecilia Tsang
SPE, Art Unit 1654

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

MICHAEL J. COLITZ, JR.
640 DOUGLAS AVENUE
DUNEDIN, FL 34698

**COPY MAILED**

JUL 3 1 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Scott J. Forbes | : | |
| Application No. 11/809,381 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. FJ 01/01 | : | 37 CFR 1.102(c)(1) |
| | : | |

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

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's 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 referred back to the Office of Initial Patent Examination for processing. This application will be accorded "special" when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Qiming Li | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593340 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/809,409 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **357** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SUITE 202
SHELTON, CT 06484-6212

MAILED

MAR 13 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Howard V. Goetz, et al. | : | |
| Application No. 11/809,416 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 067A.0006.U1(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 February 10, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.
The request was signed by Mark F. Harrington on behalf of all attorneys of record who are associated with customer No. 29683. All attorneys/agents associated with the Customer Number 29683 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

There are no pending Office actions at the present time.

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

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

cc: HOWARD V. GOETZ
11145 SE 114 PLACE
TIGARD, OREGON 97223

cc: COMPOUND PHOTONICS
PO BOX 61482
VANVOUVER, WA 98666-1482

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 |
|---|---|---|---|
| 11/809,416 | 06/01/2007 | Howard V. Goetz | 067A.0006.U1(US) |

**CONFIRMATION NO. 9590**

**POWER OF ATTORNEY NOTICE**

29683
HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

*OC000000034981511*

Date Mailed: 03/12/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2009.

- 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.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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**HARRINGTON & SMITH, PC**
**4 RESEARCH DRIVE, Suite 202**
**SHELTON CT 06484-6212**

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MAR 04 2009

**OFFICE OF PETITIONS**

In re Application of

**GOETZ,** Howard V. et al.
Application No. 11/809,417
Filed: June 01, 2007
Attorney Docket No. **067A.0008.U1(US)**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2009.

The request is **APPROVED**.

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

The request was signed by Mark Harrington on behalf of all attorneys of record who are associated with customer No. 29683. All attorneys/agents associated with the Customer Number 29683 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: **HOWARD V. GOETZ**
**11145 SW 114 PL**
**TIGARD OR 97223**

cc: **COMPOUND PHOTONICA**
**P.O. BOX 61482**
**VANCOUVER WA 98666-1482**

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

**KRIEG DEVAULT LLP**
**ONE INDIANA SQUARE**
**SUITE 2800**
**INDIANAPOLIS IN 46204-2079**

**MAILED**

JUL 13 2010

**OFFICE OF PETITIONS**

In re Application of :
Bax et al. :
Application No. 11/809,421 : DECISION ON PETITION
Filed: June 1, 2007 :
Attorney Docket No. CUPG-4 :

This is a decision on the petition, filed April 28, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed August 11, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 11, 2010 with a three (3) month extension of time.

Petitioner asserts that a timely reply was mailed via certificate of mailing on February 12, 2010, which included the following papers: a petition for a three (3) month extension of time and an amendment.

In accordance with 35 U.S.C. § 21(b), the Federal government offices in the Washington, D.C. metropolitan area, including the United States Patent and Trademark Office (USPTO), from Monday, February 8, 2010 through Thursday, February 11, 2010 were officially closed. The USPTO will consider each day from Monday, February 8, 2010 through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia". Therefore, any action or fee due from Monday, February 8, 2010 through Thursday, February 11, 2010 (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered as timely, if the action is taken or the fee paid, on the next succeeding business day on which the USPTO is open.

In view of the above, the response including a three (3) month extension of time that was filed on February 12, 2010 via certificate of mailing is considered as being timely filed.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 11, 2009, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2839 for appropriate action in the normal course of business on the reply filed February 12, 2010.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
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

**IIYA ZBOROVSKY**
**6 SCHOOLHOUSE WAY**
**DIX HILLS, NY 11746**

**COPY MAILED**

APR 0 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sam **ZHADANOV, et al.** | : | |
| Application No. 11/809,442 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the certification by registered attorney ILYA ZBOROVSKY attesting to the age of inventor Sam Zhadanov. 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 571-272-3700.

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

The application is being forwarded to the Technology Center AU 3751 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/809,445 | 05/31/2007 | Chitoor V. Srinivasan | | 7665 |

| EXAMINER |
|---|
| |

7590 04/17/2008

Chitoor V. Srinivasan
2031 SE Kilmallie court
Port Saint Lucie, FL 34952

| ART UNIT | PAPER NUMBER |
|---|---|
| 2193 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/17/2008 | PAPER |

# DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

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

The petition is dismissed.

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

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

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

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

Tammy J. Kenney

Patent Publication Branch
Office of Data Management



FORM PET650D (Rev. 08/07)

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. |
|---|---|---|---|---|
| 11/809,445 | 05/31/2007 | Chitoor V. Srinivasan | | 7665 |

| EXAMINER |
|---|
| |

7590 04/17/2008
Chitoor V. Srinivasan
2031 SE Kilmallie court
Port Saint Lucie, FL 34952

| ART UNIT | PAPER NUMBER |
|---|---|
| 2193 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/17/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/17/2008 DTERRY
06/04/2007 RREBRAHT 00000077 11809445
02 FC:2111 -250.00 OP

Refund Total: $250.00
: XXXXXXXXXXXX7095



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

SEP 17 2007

In re Application of
Eli Zhadanov
Serial Number: 11/809,446
Filed: June 1, 2007
For: HOLLOW SHOWER PANEL

DECISION ON
PETITION UNDER
M.P.E.P. 708.02(IV)

This is in response to the petition filed June 1, 2007, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c)

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

MAILED

MAY 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sam Zhadanov, et al. | : | |
| Application No. 11/809,446 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 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 **DISMISSED** as moot.

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 is considered a duplicate filed since the application was previously awarded "special" status on June 1, 2007.

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

The application is being referred back to the Technology Center Art Unit 3751 to await a reply to the outstanding Office action mailed January 9, 2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 24 2008

CHERYL H AGRIS PHD
PO BOX 806
PELHAM NY 10803

| | | |
|---|---|---|
| In re Application of | : | |
| Engelhardt et al. | : | |
| Application No. 11/809,452 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. Enz-52(C4) | : | |

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION TO ACCEPT APPLICATION AS DEPOSITED-ADDED SUBJECT MATTER BASED ON INCORPORATION BY REFERENCE," filed June 30, 2008, requesting amendment of the application to include inadvertently omitted Figures 23.

The petition is **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be held abandoned.

The application was filed on June 1, 2007. However, on April 28, 2008, the Office of Patent Application Processing mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting, *inter alia*, that a filing date had been accorded the application. However, Figure 23 described in the specification appeared to have been omitted from the application. The Notice set an extendable two-month period for reply. This petition, amendment and drawing were filed on June 30, 2008. A second Notice of Omitted Item(s) in a Nonprovisional Application was mailed on September 17, 2008.

Applicant is advised that a petition is not necessary in this instance to add the omitted figure.

The MPEP 601.01(f) states 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).

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).

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. However, a review of the documents provided on June 30, 2008 shows that applicant has failed to submit a reply compliant with the requirements of the Notice. It appears that petitioner desires to utilize option III (B)(2). As such petitioner is required to add a missing figure of the drawings, a new and replacement drawing sheets in compliance with 37 CFR 1.121(d). When the Office receives replacement sheets of drawings for patent applications after the application has been filed, a cover letter identifying the drawings by application number should accompany them. The application number and other identifying indicia should be placed on each sheet of drawings in accordance with 37 CFR 1.84(c). Each drawing sheet submitted after the filing date of the application must be identified as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

The petition fee submitted herewith will not be refunded, as the petition was not necessitated due to Office error.

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**

Telephone inquiries concerning this matter should be directed Attorney Charlema Grant at (571) 272-315.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**UPPERBEYOND, INC.**
**RISHAB AIYER GHOSH**
**43606 SKYE ROAD**
**FREMONT, CA 94539**

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SEP 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Ghosh et al. | : | |
| Application No. 11/809,489 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. (UB-0001) | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 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.

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 none of these item(s).

The petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

However, the instant petition was only signed by one of the two listed inventors. A renewed petition with the signatures of both inventors is required.

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**VAN PELT, YI & JAMES LLP**
**10050 N. FOOTHILL BLVD #200**
**CUPERTINO CA 95014**

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DEC 0 2 2008

**OFFICE OF PETITIONS**

In re Application of
Ghosh et al.
Application No. 11/809,489
Filed: June 1, 2007
Attorney Docket No: (UB-0001)

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed July 3, 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 4, 2007. A Notice of Abandonment was mailed May 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Replacement drawings previously filed on May 30, 2008; (2) the petition fee of $770.00 previously paid on May 30, 2008, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

/Liana Walsh/
Liana Walsh
Petition Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Ian Marlow

Application No. 11809504

Filed: June 1,2007

Attorney Docket No. GOTP.1010.U

: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 10-JUN-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**PAUL, HASTINGS, JANOFSKY**
**& WALKER LLP**
**875 15TH STREET, NW**
**WASHINGTON DC 20005**

COPY MAILED

NOV 10 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **CAREN,** Barry et al. | : | |
| Application No. 11/809,517 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **73477.00015.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 August 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MAGNADYNE CORPORTION**
**ATTN: BARRY CAREN // CHRIS DUVAL**
**1111 W. VICTORIA ST.**
**COMPTON, CA 90220**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF DATA MANAGEMENT

LUMEN PATENT FIRM
350 Cambridge Avenue
Suite 100
PALO ALTO CA 94306

MAY 20 2010

**DECISION ON PETITION**

| | | |
|---|---|---|
| In re Application of | : | |
| SUN, KE-XUN et al., | : | |
| Application No. 11/809,553 | : | |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. S05-145/US | : | |

This is a decision on the Petition To Withdraw Holding Of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 11, 2010.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed December 16, 2009, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on April 2, 2010.

Petitioner states that the Applicants responded by timely paying the Issue Fee on February 23, 2010.

The petitioner has demonstrated that the Fee Transmittal was timely mailed on February 23, 2010 and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,
(2) included a statement which attests to the previous timely mailing.
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 inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 11-17-08

**TO SPE OF** : ART UNIT 2827

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/809643 Patent No.: 7382645

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

**Certificates of Correction Branch**
**703-308-9390 ext.** 123

**Thank You For Your Assistance**

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

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

**Comments:** _____

**SPE** **Art Unit** 2827

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

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Vu Truong-Le | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7700130 | : RECALCULATION of PATENT |
| **Issue Date** | : 04/20/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/809,662 | : OF WYETH |
| **Filed** | : 05/31/2007 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

**COPY MAILED**

DEC 0 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Steven Ray Gilbert, et. al. | : | |
| Application No. 11/809,691 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. 9708R | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 18, 2008. Accordingly, the date of abandonment of this application is June 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Finance records indicate that the United States Patent and Trademark Office mistakenly charged petitioner's deposit account twice for $1440 for payment of the issue fee. Therefore, the Office will apply $300 of that amount towards the required issue fee, leaving a difference of $1140 to be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

for Brian W. 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
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Alexandria, Virginia 22313-1450
www.uspto.gov

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Guus Hateboer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604960 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/809,697 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **39** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**CHARLES W. HANOR**
**750 RITTIMAN ROAD**
**SAN ANTONIO TX 78209**

MAILED

AUG 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Richard G. Bennette | : | |
| Application No. 11/809,744 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. 8338.002 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on February 6, 2009. A Notice of Abandonment was mailed June 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three month extension of time fee submitted on July 13, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/809,787 | 03/26/2004 | Paul Moroz | 071469-0306093 | 7153 |

909 7590 09/27/2006
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

| EXAMINER |
|---|
| FUQUA, SHAWNTINA T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3742 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/27/2006 | |

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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| | | |
|---|---|---|
| In re Application of:Lee et al | : | |
| Serial Number: 11/809787 | : | |
| Filed: June 1,2007 | : | |
| Attorney Docket: OSU 0048 PA/41096/GEN3607 | : | DECISION ON PETITION |
| For: Assemblies Incorporating Biomolecules | : | |
| And/or Cell with Micro-/Nanostructures, | : | |
| And Methods of Making the Same for | : | |
| Biological Applications | | |

This is in response to applicant's petition to accept color drawings/photographs filed on June 1, 2007.

All requirements under 37 CFR 1.84(a)(2) are met. Accordingly, petition is Granted.

Petition GRANTED.

/Cecilia J.Tsang/
Supervisory Patent Examiner, Art nit 1654

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of
Applicant : Lee et al.
Serial No. : To be filed
Filed : June 1, 2007
Title : ASSEMBLIES INCORPORATING BIOMOLECULES AND/OR CELL WITH MICRO-/NANOSTRUCTURES, AND METHODS OF MAKING THE SAME FOR BIOLOGICAL APPLICATIONS
Docket : : OSU 0048 PA/41096/GEN3607

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR THE ACCEPTANCE OF
COLOR PHOTOGRAPHS UNDER 37 CFR 1.84

Approved 3/3/10

Applicants hereby petition the Commissioner to accept color photographs as drawings in the present case. The color photographs are necessary as the only practical way to show the effects of the process on the cell cultures tested, i.e., whether the cell cultures survived the process or not.

This petition is accompanied by:

(i) the fee required by 37 CFR 1.84(a)(2) as set forth in 37 CFR 1.17(h).

(ii) Three (3) sets of color drawings;

(iii) A Preliminary Amendment to the specification to insert the required language regarding the color drawings.

Respectfully submitted,
DINSMORE & SHOHL LLP

06/05/2007 HVUONG1 00000025 11809787
01 FC:1464 130.00 OP

By Susan M. Luna
Susan M. Luna - Agent
Registration No. 38,769

One Dayton Centre
One South Main Street, Suite 1300
Dayton, Ohio 45402-2023
Telephone: (937) 449-6400
Facsimile: (937) 449-6405
PLP/ems
Encls.

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EDELL SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD, SUITE 400
ROCKVILLE, MD 20850

MAILED

MAY 28 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Scott Schumacher | : | |
| Application No. 11/809,792 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO WITHDRAW |
| Attorney Docket No. | : | FROM RECORD |
| SVL920105002US2/0960.0024 | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 1, 2010.

The request is **APPROVED**.

A review of the file record indicates that Ari G. Akmal: (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, Ari G. Akmal 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**LAW OFFICE OF JOHN L. ISAAC**
**3140 S. PEORIA ST.**
**SUITE K-243**
**AURORA CO 80014**

MAILED

APR 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **HEIRICH,** William C. | : | |
| Application No. 11/809,809 | : | DECISION ON PETITION |
| Filed: June 01, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **7122.02.02** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2009.

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

A review of the file record indicates that the power of attorney to Law Office of John L. Isaac has been revoked by the assignee of the patent application on April 15, 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: **FELLERS SNIDER BLANKENSHIP**
**BAILEY & TIPPENS**
**THE KENNEDY BUILDING**
**321 SOUTH BOSTON SUITE 800**
**TULSA, OK 74103-3318**

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

**ROPES & GRAY LLP**
**PATENT DOCKETING 39/361**
**1211 AVENUE OF THE AMERICAS**
**NEW YORK, NY 10036-8704**

**MAILED**

MAY 26 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Edward E. ROTHBERG, et al | : | |
| Application No. 11/809,841 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | TO WITHDRAW |
| Attorney Docket No. ILOC-012-101 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 4, 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 Mark D. Rowland 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 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: EDWARD E. ROTHBERG
746 JOSINA AVENUE
PALO ALTO, CA 94306

cc: ILOG S.A.
9 RUE DE VERDUN, BP 85
GENTILLY CEDEX 94253
FRANCE

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 |
|---|---|---|---|
| 11/809,841 | 06/01/2007 | Edward E. Rothberg | ILOC-012-101 |

**CONFIRMATION NO. 9718**

**POWER OF ATTORNEY NOTICE**

*OC000000036086590*

1473
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 05/21/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2009.

- 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Oct-07

PATTON BOGGS, L.L.P.
2001 ROSS AVENUE, SUITE 3000
DALLAS TX 75201

COPY MAILED

OCT 16 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Wiley et al. | : | |
| Application Number: 11/809881 | : | DECISION ON PETITION |
| Filing Date: 05/31/2007 | : | |
| Attorney Docket Number: | : | |
| 024777.0325PTUS | : | |

This is a decision on the "PETITION FOR DATE OF DEPOSIT" filed on 6 September, 2007, which is treated as a petition requesting that the Notice to File Missing Parts of Nonprovisional Application be vacated to the extent that it states that that Figures 23B and 26C described in the specification appeared to have been omitted from the application.

The petition is granted.

The application was filed on 31 May, 2007.

Accordingly, on 3 July, 2007, the Office of Patent Examination Processing mailed a Notice, stating that the application had been accorded a filing date of 31 May, 2007, but that, *inter alia*, Figures 23B and 26C described in the specification appeared to have been omitted from the application.

In response, on 6 September, 2007 (certificate of mailing date 4 September, 2007), the present petition a copy of petitioner's postcard receipt and a copy of 48 sheets of drawings was filed. Petitioner asserts that Figures 23B and 26C were present on 31 May, 2007, when the application papers were filed.

Upon review, petitioner's contention is well taken. Figures 23B and 26C have been located among the drawings present on filing. Accordingly, the Notice mailed on 3 July, 2007, was incorrect in that it stated that the above-referenced Figures appeared to have been omitted.

The "Notice" mailed on 3 July, 2007, is vacated to the extent that it states that Figures 23B and 26C described in the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account as the petition was necessitated by Office error.

The application will be processed and examined using the application papers present on filing. The duplicate copy of the drawings present on filing supplied on 6 September, 2007, will not be used for processing or examination, but will be retained in the application file.

Receipt of the replacement drawings filed with the present petition is acknowledged.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of 31 May, 2007, using only the application papers filed on that date.

Telephone inquires should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**SHELL OIL COMPANY**
**P.O. BOX 2463**
**HOUSTON, TX 77252-2463**

COPY MAILED
SEP 04 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Vinegar et al. | : | |
| Application No. 11/809,889 | : | DECISION ON PETITION |
| Filed: June 1, 2007 | : | |
| Attorney Docket No. 5659-14202/TH2264c2 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 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 5, 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 6, 2007. A Notice of Abandonment was mailed March 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a $310.00 statutory basic filing fee; an Oath/Declaration and the $130.00 late surcharge; a $510.00 application search fee; a $210.00 application examination fee; and a $2,340.00 specification and drawings in excess of 100 pages fee; (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the 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 with be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Liana Walsh

Liana Walsh
Petition Examiner
Office of Petitions

cc: Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
Eric B. Meyertons
P.O. Box 398
Austin, TX 78767-0398

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Markus Lutz | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595708 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/809,894 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/01/2007 | : 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.

DATE 9/11/07

APPLICATION NUMBER 11/809,902

DOC CODE Pet Dec

DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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SEP 12 2007

**OFFICE OF PETITIONS**

In re Application of
Christoper S. Dunn
Application No. 11/809,902
Filed: May 31, 2007
Attorney Docket No. IVPH/0780

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This decision is in response to the petition filed July 18, 2007 under 37 CFR 1.47(b).

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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified reissue application was filed on May 31, 2007. The application named Christopher S. Dunn as the sole inventor but did not, *inter alia*, submit an executed oath or declaration, consent of assignee pursuant to 37 CFR 1.72 or statement under 37 CFR 3.73(b). A Notice to File Missing Parts was mailed June 18, 2007 requiring an executed oath or declaration, consent of assignee pursuant to 37 CFR 1.72, statement under 37 CFR 3.73(b) and a surcharge for the late filing of the oath or declaration.

In response to the Notice to File Missing Parts, with a petition under 37 CFR 1.47(b), the applicant shows that a copy of the application and reissue declaration were sent to the non-signing inventor and that the non-signing inventor has expressly refused to sign the reissue oath/declaration and seeks status under 37 CFR 1.47(b).

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

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

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

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

The petition lacks item (2).

Although proof the application was presented and that the sole inventor refuses to cooperate with the filing of the reissue application, the Consent of Assignee, 37 CFR 3.73(b) statement, proof of proprietary interest and of irreparable damage have been provided, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor.

Additionally, please note that the fee for a petition under 37 CFR 1.47 is set at $200.00 not $130.00 as was indicated in the petition. In view thereof, petitioner's deposit account no. 23-3050 has been charged $200.00.

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
Office of Petitions

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

IVPH-0780

OIPE
JUL 18 2007
PATENT & TRADEMARK OFFICE

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In Re Reissue Application of:**

Christopher S. Dunn

**Confirmation No.:** 1218

**Reissue Application No:** 11/809,902

**Group No.:** 2621

**Reissue Application Filed:** 05-31-2007

**Examiner:** To Be Assigned

**For:** Method of Detecting Authorised Biometric Information Sensor

EXPRESS MAIL LABEL NO.: ER 337 149 649 US
DATE OF DEPOSIT: July 18, 2007

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

## PETITION UNDER 37 CFR. 1.47(b) IN SUPPORT OF FILING ON BEHALF OF SOLE INVENTOR REFUSING TO SIGN REISSUE DECLARATION

1. This is a Petition Under 37 CFR 1.47(b) in Support of Filing on Behalf of A Sole Inventor Refusing to Sign the Reissue Declaration.

2. A Statement of proof of pertinent facts in support of the Petition Under 37 CFR 1.47(b) is included.

3. Fee Payment (37 CFR 1.17(h):

☐ A check in the amount of $___ is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.

☒ Please charge Deposit Account No. 23-3050 in the amount of **$130**.

This sheet is attached in duplicate.

07/20/2007 HLE333 00000027 233050 11809902
03 FC:1464 130.00 DA

IVPH-0780

☒ Please charge Deposit Account No. 23-3050 for any fee deficiency or credit this account for any overpayment for this petition.

Date: July 17, 2007

Michael P. Dunnam

**Michael P. Dunnam**
Registration No. 32,611

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA22313-1450
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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**OFFICE OF PETITIONS**

In re Application of
Christoper S. Dunn
Application No. 11/809,902
Filed: May 31, 2007
Attorney Docket No. IVPH/0780

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is a decision on the request for reconsideration filed under 37 CFR 1.47(b) [1] on October 9, 2007.

The petition is GRANTED.

The above-identified reissue application was filed on May 31, 2007. The application named Christopher S. Dunn as the sole inventor but did not, *inter alia*, submit an executed oath or declaration, consent of assignee pursuant to 37 CFR 1.72 or statement under 37 CFR 3.73(b). A Notice to File Missing Parts was mailed June 18, 2007 requiring an executed oath or declaration, consent of assignee pursuant to 37 CFR 1.72, statement under 37 CFR 3.73(b) and a surcharge for the late filing of the oath or declaration. In response to the Notice to File Missing Parts, a petition under 37 CFR 1.47(b) was filed with proof that a copy of the application and reissue declaration were sent to the non-signing inventor and that the non-signing inventor expressly refused to sign the reissue oath/declaration and seeks status under 37 CFR 1.47(b). The petition was dismissed in a decision mailed September 12, 2007 however because the petition lacked item (2) pursuant to 37 CFR 1.47(b).

---

[1] A grantable petition under 37 CFR 1.47(b) requires:
(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

Although proof the application was presented and that the sole inventor refused to cooperate with the filing of the reissue application, the Consent of Assignee, 37 CFR 3.73(b) statement, proof of proprietary interest and of irreparable damage have been provided, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 was not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor.

Comes now petitioner with the instant request for reconsideration and provides a reissue application declaration signed by the Yves Audubert, President of ACTIVIDENTY, INC. In view of the above and since the reissue declaration in compliance with the requirements of § 1.63 and § 1.175 has been submitted, the Rule 47 applicant has thereby met the requirements above.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Woodcock Washburn LLP**
**Cira Centre, 12th Floor**
**2929 Arch Street**
**Philadelphia, PA 19104-2891**

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APR 30 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Christopher S. Dunn | : | |
| Application No. 11/809,902 | : | DECISION ON PETITION |
| Filed: May 31, 2007 | : | TO WITHDRAW |
| Attorney Docket No. IVPH-0780 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2007.

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Christopher S. Dunn**
**5586 Goddard Street**
**Manotick, ON K4M 1C5**

cc: **Perkins Coie**
**1201 Third Avenue**
**Suite 4800**
**Seattle, WA 98101**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/809,902 | 05/31/2007 | Christopher S. Dunn | IVPH-0780 |

**CONFIRMATION NO. 1218**

**POWER OF ATTORNEY NOTICE**

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

*OC000000029535962*

Date Mailed: 04/23/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2007.

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

/tswilliams/

---

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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**RENNER KENNER GREIVE**
**BOBAK TAYLOR & WEBER**
**FIRST NATIONAL TOWER 4th FLOOR**
**106 S. MAIN STREET**
**AKRON OH 44308**

MAILED

JUN 29 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bernard M. Koberlein | : | |
| Application No. 11/809,949 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. NMM.P.US0001 | : | FROM RECORD |

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 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 request was signed by Rodney L. Skoglund on behalf of all attorneys of record who are associated with customer No. 26360.

All attorneys/agents associated with the Customer Number 26360 have been withdrawn.

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

All future correspondence will be directed to the sole named inventor Bernard M. Koberlein at the address indicated below.

A Restriction Requirement was mailed on December 18, 2008.

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**BERNARD M. KOBERLEIN**
**NATIONAL MOLD & MACHINE, INC.**
**1387 CLARENDON AVENUE, SW**
**CANTON OH 44710**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/809,949 | 06/04/2007 | Bernard M. Koberlein | NMM.P.US0001 |

**CONFIRMATION NO. 1539**

**POWER OF ATTORNEY NOTICE**

26360
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

*OC000000036650079*

Date Mailed: 06/25/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/23/2009.

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

/kocreasy/

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

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www.uspto.gov

Venable
2049 Century Park East, 21st Floor
LOS ANGELES, CA 90067

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Simon Huang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644881 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/809,954 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : 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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**MICHAEL W. CALDWELL**
**4226 RIVERMARK PARKWAY**
**SANTA CLARA CA 95054-4150**

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| | | |
|---|---|---|
| In re Application of | : | |
| David Fritz | : | |
| Application No. 11/809,995 | : | DECISION ON PETITION |
| Filing Date: June 4, 2007 | : | |
| Attorney Docket No. SI-0704 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed, April 8, 2008 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed July 3, 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 4, 2007. The Notice of Abandonment was mailed March 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath and surcharge, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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P.O. Box 1450
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www.uspto.gov

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Peter Carmeliet | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7592314 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,017 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : 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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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

Applicant: Waisbard
Appl. No.: 11/810,023
Filing Date: June 4, 2007
Title: KEY PRODUCTION SYSTEM
Attorney Docket No.: 7251/101626
Pub. No.: 2008/0085003 A1
Pub. Date: April 10, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 5, 2008, for the above-identified application.

The request is granted.

Applicant's representative has noted that claims which do not correspond to the claims as filed were published, it is noted that the claims and specification from the certified copy were published.

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 O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RICHARD D. CLARKE
LAW OFFICE OF RICHARD D. CLARKE
3755 AVOCADO BLVD., #1000
LA MESA, CA 91941-7301

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SEP 2 4 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Oswald C. Svehaug, et al. | : | |
| Application No. 11/810,060 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 07-SVE/101 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 4, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Oswald C. Svehaug. 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 3771 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Victor D. Dolecek, et al. | : | |
| Application No. 11/810,071 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. P00010906.06 | : | FROM RECORD |
| | : | |

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 30, 2007.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on August 24, 2007 does not include a proper chain of title or the correct 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: BRIAN P. HOPKINS
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY & POPEO, PC
666 THIRD AVENUE
NEW YORK, NY 10017

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Suite 3800
500 W. Madison Street
Chicago, IL 60661-2562

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David Majkrzak | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658059 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,085 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : 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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Paper No.

INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND OH 45140

**MAILED**

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Xuan Truong Nguyen : DECISION ON PETITION
Application No. 11/810,117 :
Filed: June 4, 2007 :
Atty Docket No. TEC-037148-I1 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 30, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 13, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). Replies were filed on November 10, 2008 and November 17, 2008. The reply filed November 10, 2008 was not a bona fide reply to the Office action. The reply filed November 17, 2008 was filed outside of the three-month period for reply. A courtesy Notice of Abandonment was mailed on January 29, 2009.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The instant petition included an extension of time for response within the third month. However, no such extension of time is obtainable after the abandonment of the application. An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the

petition was submitted subsequent to the maximum extendable period for reply, the extension of time fee was previously refunded to the Deposit Account, as authorized (on or about May 27, 2009).

Technology Center AU 1791 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 30, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**Chernoff, Vilhauer, McClung & Stenzel, LLP**
**601 SW Second Avenue**
**Suite 1600**
**Portland, OR 97204-3157**

| | | |
|---|---|---|
| In re Application of | : | |
| John E. Kelley | : | |
| Application No. 11/810,152 | : | DECISION ON PETITION |
| Filed: June 5, 2007 | : | TO WITHDRAW |
| Attorney Docket No. DBH:8889.0001 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 Donald B. Haslett on behalf of attorney/agents associated with customer number 00152. All attorneys/agents associated with customer number 00152 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: Advanced Surfaces and Processes, Inc.
85 N. 26th Avenue
Cornelius, OR 97113

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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 |
|---|---|---|---|
| 11/810,152 | 06/05/2007 | John E. Kelley | DBH:8889.0001 |

**CONFIRMATION NO. 1806**

**POWER OF ATTORNEY NOTICE**

152
CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
601 SW Second Avenue
Suite 1600
PORTLAND, OR 97204-3157

*OC000000036783830*

Date Mailed: 07/06/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2009.

- 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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O'KEEFE, EGAN, PETERMAN & ENDERS LLP
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN TX 78746

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AUG 1 5 2008

OFFICE OF PETITIONS

In re Application of :
Mark A. Casparian et al. :
Application No. 11/810,194 : ON PETITION
Filed: June 5, 2007 :
Attorney Docket Number: **DELL:067 (DC-11742)** :

This is a decision on the petition filed May 5, 2008, under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 5, 2007, instead of the presently accorded filing date of June 4, 2007.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on June 5, 2007, pursuant to the requirements of 37 CFR 1.10.

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is June 4, 2007, but argue that the application was actually deposited with the USPS on June 5, 2007.

In support, petitioners have provided a copy of Express Mail Customer label No. EV978890896US (the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file) showing a "date-in" of June 4, 2007 but with a postmark of June 8, 2007, which corroborates that an item bearing Express Mail Label No. EV978890896US was accepted by the USPS on June 5, 2007. In view thereof, it is concluded that the correct date of deposit in Express Mail service is June 5, 2007. Therefore, the application is entitled to a filing date of June 5, 2007.

The petition is **GRANTED**. In view thereof, no petition fee is due and none has been charged.

The application is being returned to Office of Patent Application Processing for further processing with a filing date of June 5, 2007, <u>not June 4, 2007</u>.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

**MAILED**

MAY 25 2010

**OFFICE OF PETITIONS**

In re Application of
Jens Jonasson, et al.
Application No. 11/810,198
Filed: June 10, 2007
Attorney Docket No. 324212019200

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 25, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Yahoo C/O MOFO Palo Alto has been revoked by the assignee of the patent application on April 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to 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: YAHOO! INC
701 FIRST AVENUE
SUNNYVALE, CA 94089

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**NELSON MULLINS RILEY & SCARBOROUGH, LLP**
**1320 MAIN STREET, 17TH FLOOR**
**COLUMBIA, SC 29201**

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| | | |
|---|---|---|
| In re Application of | : | |
| Philips, Jim | : | DECISION ON PETITION |
| Application No. 11/810,222 | : | TO WITHDRAW |
| Filed: June 5, 2007 | : | FROM RECORD |
| Attorney Docket No. 41832/5640 | : | |

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

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the previous power of attorney was revoked by the assignee on August 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES N.J. RUGGIERO
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10th FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

MAILED

FEB 11 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Jessica E. LeMay, et al. | : |
| Application No. 11/810,233 | : DECISION ON PETITION |
| Filed: June 5, 2007 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 460.2126USV1 | : |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 10, 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) 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 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) 272-3204. 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 3761 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/810,233 | 06/05/2007 | 3761 | 1330 | 460.2126USV1 | 21 | 1 |

**CONFIRMATION NO. 2937**

**CORRECTED FILING RECEIPT**

CHARLES N.J. RUGGIERO
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10th FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

*OC000000034407729*

Date Mailed: 02/05/2009

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

**Applicant(s)**

Jessica E. Lemay, Paramus, NJ;
Dane R. Jackson, Bloomingdale, NJ;
Michael L. Miller, Dover, DE;
Wayne D. Melvin, Camden, DE;

**Assignment For Published Patent Application**

Playtex Products, Inc.

**Power of Attorney:**

Charles Ruggiero--28468
Paul Greeley--31019

**Domestic Priority data as claimed by applicant**

This application is a DIV of 11/137,809 05/25/2005
which is a DIV of 10/081,528 02/22/2002 PAT 6,923,789

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 07/05/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/810,233**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Multiple-component tampon applicator

**Preliminary Class**

604

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/810,234 | 06/05/2007 | Akihiro Kasahara | 430.0013USU | 2771 |

7590 07/02/2009
Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

| EXAMINER |
|---|
| BARRON JR, GILBERTO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/02/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/02/2009 NFARMER 0000167828

CHECK Refund Total: $500.00

Adjustment date: 07/02/2009 NFARMER
06/07/2007 SDENBOB3 00000005 11810234
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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**ROY L. ANDERSON**
**WAGNER, ANDERSON & BRIGHT, LLP**
**3541 OCEAN VIEW BOULEVARD**
**GLENDALE, CA 91208**

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NOV 07 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Stephen P. Hines | : | |
| Application No. 11/810,236 | : | DECISION ON PETITION |
| Filed: June 5, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 01-3644-54 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 2851 for action on the merits commensurate with this decision.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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AUG 22 2007

**OFFICE OF PETITIONS**

**Raymond J. Ferner**
**2056 NW Aloclek Drive, Suite 314**
**Hillsboro, OR 97124**

In re Application of
Morgan T. Johnson
Application No. 11/810,237
Filed: June 5, 2007
Attorney Docket No. Octavian. P006

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 June 5, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement made by the applicant's attorney. Accordingly, the above-identified application has been accorded "special" status.

It is also noted that the requestor states that a statement in support of this petition is enclosed but there is no record of such filed with this petition on June 5, 2007.

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 2829 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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DEC 29 2009

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

| | | |
|---|---|---|
| In re Application of | : | |
| John Cashman, et al. | : | |
| Application No. 11/810,257 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 11832-005-999 | : | FROM RECORD |
| | : | |

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 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jones Day has been revoked by the assignee of the patent application on November 12, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. 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: JOHN R. CASHMAN
5310 EASTGATE MALL
SAN DIEGO, CA 92121

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Manfred Reinold | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582832 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,266 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/04/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **16** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

# UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Brian L. Bates

Application No. 11810289

Filed: June 5,2007

Attorney Docket No. 12730/263 (PA-5105-CON2-C

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 05-MAR-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Reginald Little
631 E. Call St # 111
Tallahassee FL 32301

**COPY MAILED**

MAR 1 7 2008

**OFFICE OF PETITIONS**

In re Application of
Reginald Little
Application No.11/810,351
Deposited: June 5, 2007
Title: Terrestrial Lightning-powered Magnetic Organized Single Crystal Diamond Blocks Formation: the Forces of Nature to Form the Beautiful Gem

DECISION ON PETITION

This is a decision on the petition to accord a filing date filed February 4, 2008, requesting that the above-identified application be accorded a filing date of June 5, 2006.

This petition is hereby **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Application papers in the above-identified application were deposited on June 5, 2007. However, on July 13, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. The Notice was returned to the Office on August 14, 2007. The Notice of Incomplete Nonprovisional Application was re-mailed on October 15, 2007. The Notice of Incomplete Nonprovisional Application set an extendable two (2) month period for reply. A reply to the Notice was not received. Accordingly, this application was terminated on December 16, 2007. A Notice of Termination of Proceedings was mailed on January 16, 2008.

The merits of the petition have **not** been reviewed.

A review of the record shows that this application was terminated due to the failure to receive any reply from applicant within the time period set. The payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to

revival of the terminated/abandoned application. The current petition fee is $770.00.

It should also be noted any assertions that the items mentioned in the Notice were submitted or are not necessary for filing date must be by way of a petition with the accompanying $400.00 petition fee. If the petition is entitled to a filing date, a request for refund of the $400.00 may be included with the petition

Although petitioner has provided a copy of a $500.00 money order. A review of the finance records shows that the $500.00 has not been located.

The address provided on petition differs from the correspondence address of record. If Petitioner desires to receive future correspondence regarding this application, the appropriate change of correspondence address should be submitted if appropriate. A courtesy copy of this decision will be mailed to Petitioner. All further correspondence will be mailed to the correspondence address of record.

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

cc: Reginald B. Little
P.O. Box 2884
Elizabeth City, North Carolina 27906

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 | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/810,351 | 06/05/2007 | Reginald Bernard Little | |

Reginald B. Little
312 PINEWOOD AVE.
ELIZABETH CITY, NC 27909

**CONFIRMATION NO. 2284**
**FORMALITIES LETTER**

Date Mailed: 10/15/2007

# NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated *(37 CFR 1.53(e))*. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $400.00 petition fee *(37 CFR 1.17(f))*. If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

If the above-identified application contains a priority claim under 37 CFR 1.55 or benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date of the application and applicant wants to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the above-identified application, applicant must file a petition under 37 CFR 1.57(a) accompanied by the $400.00 petition fee (37 CFR 1.17(f)) within TWO MONTHS of the date of this Notice. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

- The statutory basic filing fee is missing.
  *Applicant must submit $* **300** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A replacement abstract commencing on a separate sheet in compliance with 37 CFR 1.72(b) and 37 CFR 1.121 is required.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **$1000** for a non-small entity

- **$300** Statutory basic filing fee.

- The application search fee has not been paid. Applicant must submit **$500** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$200** to complete the examination fee for a non-small entity.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

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***If you are not using EFS-Web to submit your reply, you must include a copy of this notice.***

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
PART 3 - OFFICE COPY

PTO/SB/64 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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



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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

**WARNING:**

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

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |
| Address | Telephone Number |
| Address | |

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

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

I hereby certify that this correspondence is being:

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

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

| | |
|---|---|
| Date | Signature |
| | Typed or printed name of person signing certificate |

# Privacy Act Statement

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

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

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

PTO/SB/122 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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# CHANGE OF CORRESPONDENCE ADDRESS
## *Application*

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|---|---|
| Application Number | |
| Filing Date | |
| First Named Inventor | |
| Art Unit | |
| Examiner Name | |
| Attorney Docket Number | |

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: [ ]

***OR***

☐ Firm or Individual Name

Address

| City | State | Zip |
|---|---|---|

Country

| Telephone | Email |
|---|---|

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

| Date | Telephone |
|---|---|

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

# Privacy Act Statement

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

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

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United States Patent and Trademark Office
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Reginald Little
631 E. Call St # 111
Tallahassee FL 32301

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JUN 2 3 2008

**OFFICE OF PETITIONS**

In re Application of
Reginald Little
Application No.11/810,351
Deposited: June 5, 2007
Title: Terrestrial Lightning-powered Magnetic Organized Single Crystal Diamond Blocks Formation: the Forces of Nature to Form the Beautiful Gem

DECISION ON PETITION

This is a decision on the renewed petition to accord a filing date filed May 16, 2008, requesting that the above-identified application be accorded a filing date of June 5, 2007.

The petition is **GRANTED**

Application papers in the above-identified application were deposited on June 5, 2007. However, on July 13, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. The Notice was returned to the Office on August 14, 2007. The Notice of Incomplete Nonprovisional Application was re-mailed on October 15, 2007. The Notice of Incomplete Nonprovisional Application set an extendable two (2) month period for reply. A reply to the Notice was not received. Accordingly, this application was terminated on December 16, 2007. A Notice of Termination of Proceedings was mailed on January 16, 2008.

Petitioner maintains that drawings are not required for an understanding of the application because the application contains process claims.

Upon further review of the application it is evident 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.

Petitioner also contends that a money order was previously submitted to cover the filing fees. Office records have been searched and the fees in the amount of $500.00 have been located in application no. 12/008,406. Application no. 12/008,406 appears to be a later filed duplicate application of the current application. Nonetheless a copy of the money order provided shows that the money was directed to application no. 11/810,351. Accordingly the fees will be transferred.

To the extent the instant petition requests a filing date of **June 5, 2007** with no drawings present in the application, the petition is **GRANTED**.

Pursuant to this decision, the application will be referred to Office of Patent Application Processing for:

***correction of the filing date to June 5, 2007 ;**

***for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**

*** review of the filing fees and**

***for issuance of a filing receipt.**

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Reginald B. Little
P.O. Box 2884
Elizabeth City, North Carolina 27906

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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**CISLO & THOMAS, LLP**
**233 WILSHIRE BLVD**
**SUITE 900**
**SANTA MONICA CA 90401-1211**

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SEP 18 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **Patel, C. Kumar N. et al.** | : | |
| Application No. 11/810,378 | : | DECISION ON PETITION |
| Filed: June 05, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **06-17245** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor Kumar Patel, 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 2613 for action on the merits commensurate with this decision.

Monica A Graves
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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JUN 0 8 2009

OFFICE OF PETITIONS

LISA A. HAILE, J.D., PH.D.
DLA PIPER US LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 92121-2133

| | | |
|---|---|---|
| In re Application of | : | |
| Alexander S. Belyaev | : | |
| Application No. 11/810,386 | : | DECISION ON PETITION |
| Filed: June 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. ABVECTOR1100-2 | : | FROM RECORD |
| | : | |

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

The request is **NOT APPROVED**.

A review of the file record indicates that Lisa Haile of DLA Piper US, LLP 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-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 this application should be directed to the Technology Center.

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

cc: ALEXANDER BELYAEV
9056 CAPCANO ROAD
SAN DIEGO, CA 92126

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**PATENT SERVICES**
**101 COLUMBLA ROAD**
**P.O.BOX 2245**
**MORRISTOWN NJ 07962**

**MAILED**

MAY 19 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Knowles et al. | : | |
| Application No. 11/810,437 | : | ON PETITION |
| Filed: March 29, 2007 | : | |
| Attorney Docket No. H28793 | : | |

This letter is in response to the Request, filed February 22, 2010, that (1) urges that the previously filed Request on January 23, 2009 to correct a misspelling of applicant's name is no longer applicable, and (2) requests that no action be taken in response to the January 23, 2009 Request.

The February 22, 2010 Request is **GRANTED**.

Petitioner contends that the request to correct the misspelling of applicant's name is not applicable since the granting of a Request for Amendment of Inventorship under 37 CFR 1.48(b) filed March 30, 2007, removed the applicant from the application. Therefore, the petition filed January 23, 2009 is unnecessary in view of the decision to remove applicant's name from the above-identified application. Accordingly, the United States Patent and Trademark Office will disregard the January 23, 2009 Request and take no further action in response thereto.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this matter should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Thomas J. Perkowski
22 Thorndal Circle
Darien, Connecticut 06820

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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**MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO**
**ATTN: PATENT INTAKE CUSTOMER NO. 35437**
**ONE FINANCIAL CENTER**
**BOSTON MA 02111**

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :

**LOGVINOV**, Oleg :
Application No. 11/810,460 :
Filed: June 05, 2007 :
Attorney Docket No. **34585-517 UTIL** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 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 Peter F. Snell on behalf of all attorneys of record who are associated with customer No. 35437. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OLEG LOGVINOV**
**27 BEACON HILL DRIVE**
**EAST BRUNSWICK, NJ 08816**

cc: **ARKADOS, INC.**
**220 OLD NEW BRUNSWICK ROAD**
**SUITE 202**
**PISCATAWAY, NJ 08854**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**FULBRIGHT & JAWORSKI, LLP**
**666 FIFTH AVE**
**NEW YORK NY 10103-3198**

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MAR 0 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Edward F. Ikeguchi et al. | : | |
| Application No. 11/810,483 | : | DECISION ON PETITION |
| Filed: June 6, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. NY-MSI 203-US-CIP | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 27, 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 one of the applicant's passport 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 2161 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**LAW OFFICES OF ANDREW SCHROEDER**
**P.O. BOX 6731**
**SANTA MARIA CA 93454**

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APR 0 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Grossman, Robert | : | |
| Application No. 11/810,485 | : | ON PETITION |
| Filed: June 5, 2007 | : | |
| Attorney Docket No. ISQRB033 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 14, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

Petitioner only submitted $770.00 towards payment of the $810.00 petition fee.

As the petition in the above-identified application was not accompanied by full and proper payment of the required fee, no consideration on the merits can be given to the petition until the required full fee is received.

Further, it is unclear if petitioner seeks to revive the instant application under the unintentional standard of 37 CFR 1.137(b) or the unavoidable standard of 37 CFR 1.137(a). The first sheet of the petition is directed towards 37 CFR 1.137(b); however, the second sheet is directed towards 37 CFR 1.137(a).

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**LAW OFFICES OF ANDREW SCHROEDER**
**P.O. BOX 6731**
**SANTA MARIA CA 93454**

**COPY MAILED**

AUG 28 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Grossman, Robert | : | |
| Application No. 11/810,485 | : | ON PETITION |
| Filed: June 5, 2007 | : | |
| Attorney Docket No. 1SQRB033 | : | |

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (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 pre-examination processing. Thereafter, the application will be referred to Technology Center AU 2629 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Lynn G. Foster**
**602 E. 300 S.**
**Salt Lake City, UT 84102**

**COPY MAILED**

APR 1 5 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James P. McCormick et al. | : | |
| Application No. 11/810,502 | : | DECISION ON PETITION |
| Filed: June 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 57387.0005 | : | 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 November 7, 2007.

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

A review of the file record indicates that the power of attorney to Lynn G. Foster has been revoked by the applicants of the patent application on December 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Holland & Hart LLP**
**P.O. Box 11583**
**60 E. South Temple, Suite 2000**
**Salt Lake City, UT 84110**

# 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. |
|---|---|---|---|---|
| 11/810,502 | 06/06/2007 | James P. McCormick | 57387.0005 | 3353 |

57600 7590 01/26/2009
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City, UT 84110

| EXAMINER |
|---|
| WALDBAUM, SAMUEL A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1792 | |

| 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

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United States Patent and Trademark Office
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www.uspto.gov

WK

Mailed: 1/26/09

| | | |
|---|---|---|
| In re application of | : | |
| McCormick et al. | : | DECISION ON |
| Serial No. 11/810,502 | : | PETITION |
| Filed: June 6, 2007 | : | |
| For: Wash Fluid Containment System | : | |

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed October 31, 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

L.Grant Foster
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City UT 84110

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

GREGORY W. OSTERLOTH
HOLLAND & HART, LLP
P.O. BOX 8749
DENVER, CO 80201

MAILED

MAY 07 2010

OFFICE OF PETITIONS

Applicant: Charles D. Thomas
Appl. No.: 11/810,510
Filing Date: June 5, 2007
Title: RESOURCE ACCESS MANAGER FOR CONTROLLING ACCESS TO A LIMITED-ACCESS RESOURCE
Attorney Docket No.: 10050947-I
Pub. No.: US 2008/0307139 A1
Pub. Date: December 11, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 13, 2009, for the above-identified application.

The patent issued on January 5, 2010.

The request is DISMISSED as moot.

Since the application has been issued as a patent, the request is deemed moot.

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOS ALAMOS NATIONAL SECURITY, LLC
LOS ALAMOS NATIONAL LABORATORY
PPO. BOX 1663, LC/IP, MS A187
LOS ALAMOS NM 87545

COPY MAILED
JAN 21 2009

| | | |
|---|---|---|
| In re Application of | : | |
| Berning, et al. | : | |
| Application No. 11/810,519 | : | DECISION ON PETITION |
| Filed: June 5, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. S-112,818 | : | |

This is a decision on the 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 the prior–filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000, 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.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 is **GRANTED**.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon.**

**Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.**

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222. 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 1700, Art Unit 1794 for appropriate action on the amendment filed December 4, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

Anthony Knight
Supervisor
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
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/810,519 | 06/05/2007 | 1794 | 1130 | S-112,818 | 4 | 1 |

**CONFIRMATION NO. 3339**

**CORRECTED FILING RECEIPT**

35068
LOS ALAMOS NATIONAL SECURITY, LLC
LOS ALAMOS NATIONAL LABORATORY
PPO. BOX 1663, LC/IP, MS A187
LOS ALAMOS, NM 87545

*OC000000034007202*

Date Mailed: 01/12/2009

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)**

Douglas E. Berning, Los Alamos, NM;
Robert H. Kraus JR., Los Alamos, NM;
Robert W. Atcher, Los Alamos, NM;
Jurgen G. Schmidt, Los Alamos, NM;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/631,104 07/31/2003 PAT 7,226,636

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/10/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/810,519**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Gold-coated nanoparticles for use in biotechnology applications

**Preliminary Class**

428

## 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).

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/13/10 **Paper No.:** ——

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/810521 Patent No.: 7642234 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

Virginia Tolbert
**Certificates of Correction Branch**
571-272-0460

**Thank You For Your Assistance**

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

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

**Comments:** _____

6/9/10

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

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. |
|---|---|---|---|---|
| 11/810,522 | 06/06/2007 | Gert Kroner | 03443.000600. | 3117 |

| EXAMINER |
|---|
| EDWARDS, NEWTON O |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1794 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/03/2010 | PAPER |

5514 7590 03/03/2010
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed :
In re Application of
Kroner et. al.
Serial No. 11/810,522
Filed: June 6, 2007
For: Cellulosic Staple Fiber And Its Use

MAR 0 3 2010

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 for Examiner's restriction requirement in the Office Action dated March 20, 2009 and made final in the Office Action dated June 30, 2009.

A review of the record indicates that the application is abandoned for Applicants' failure to reply to the Office Action mailed June 30, 2009.

**DECISION**

The petition is **DISMISSED**.

/JACQUELINE STONE/

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

Alicia A. Russo
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
Inohara, et al. :
Application No. 11/810,524 : ON PETITION
Filed: June 6, 2007 :
Attorney Docket No. 04079D/HG :

This is in response to the "PETITION UNDER 37 C.F.R. 1.57(a)(3)," filed July 31, 2007, requesting that the above-referenced application be accorded a filing date of June 6, 2007 with an incorporation of the drawings filed in Application No. 10/486,524. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on June 6, 2007. However, on July 10, 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 composition 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). The same practice has been followed in composition applications.

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 June 6, 2007 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, no petition fee is due. 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.

Pursuant to this decision, the application will be referred to Office of Patent Application Processing for:

- **correction of the filing date** to June 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.**

Entry of the amendment filed July 31, 2007 will be determined by the examiner.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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LOREN G. HELMREICH
5851 San Felipe
SUITE 975
HOUSTON TX 77057

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DEC 1 0 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cox, et al. | : | |
| Application No. 11/810548 | : | DECISION |
| Filed/Deposited: 6 June, 2007 | : | |
| Attorney Docket No. ENVIRONMENTAL-16 | : | |

This is a decision on the petition filed on 23 October, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 29 June, 2009, with reply due under a non-extendable deadline on or before 29 September, 2009.

The application went abandoned by operation of law after midnight 29 September, 2009.

The Office mailed the Notice of Abandonment on 14 October, 2009.

On 23 October, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made the statement of unintentional delay.

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

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

As to Allegations of
Unintentional Delay

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

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

## CONCLUSION

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

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

[4] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

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OFFICE OF PETITIONS

In re Application of
Hsu et al.
Application No. 11/810,555
Filed: June 6, 2007
Attorney Docket No. C6694(V)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed November 13, 2008. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 14, 2009. A Notice of Abandonment was mailed on March 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue and publication fees of $1810, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/810,555 | 06/06/2007 | Feng-Lung Gordon Hsu | C6694(V) |

**CONFIRMATION NO. 2985**

**POA ACCEPTANCE LETTER**

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

*OC000000038668906*

Date Mailed: 11/09/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2009.

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

/crgrant/

---

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 |
|---|---|---|---|
| 11/810,555 | 06/06/2007 | Feng-Lung Gordon Hsu | C6694(V) |

**CONFIRMATION NO. 2985**

**POWER OF ATTORNEY NOTICE**

201
UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG West S. Wing
ENGLEWOOD CLIFFS, NJ 07632-3100

*OC000000038668900*

Date Mailed: 11/09/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/crgrant/

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

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Paper No.

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

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MAR 26 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kuroda et al. | : | ON PETITION |
| Application No. 11/810,556 | : | |
| Filed: June 6, 2007 | : | |
| Atty Docket No. NGTOSH.004AUS | : | |

This is in response to the PETITION IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION filed September 10, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

The petition is **DISMISSED AS MOOT**. The relief requested has already been accorded.

Application papers in the above-identified application were deposited on June 6, 2007. However, on July 10, 2007, the Office of Patent Application Processing (formerly known as the Office of Initial Patent Examination) mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application had not been accorded a filing date because the application was filed without drawings as required by 35 U.S.C. 113 (first sentence).

---

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

In response thereto, applicants timely filed the instant petition, asserting that the application as filed included drawings and was entitled to a filing date of June 6, 2007. This response included a copy of the drawings.

Prior to a decision on this petition, on October 1, 2007, the Office responded, mailing a NOTICE TO FILE CORRECTED APPLICATION PAPERS. Therein, applicants were advised that the application had been accorded a filing date of September 10, 2007. However, replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) were required.

On October 25, 2007, applicants timely[2] responded with the filing of replacement sheets in 10 pages.

On November 2, 2007, a filing receipt was mailed to applicants, again stating that the application filing date was September 10, 2007.

The Office erred in according this application a filing date of September 10, 2007 based on the resubmission of drawings on petition for a filing date of June 6, 2007.

On November 16, 2007, the Office mailed applicants a WITHDRAWAL OF PREVIOUSLY SENT NOTICE, advising them that the Notice mailed October 1, 2007 was withdrawn. The Office further advised applicants that the application is complete and will be processed for examination. Most importantly, the Notice stated that the application filing date is June 6, 2007.

A review of the application record shows that this application has been accorded a filing date of June 6, 2007 and forwarded for examination in due course.

Thus, the relief requested has been granted. Nonetheless, it is appropriate to state that on petition applicants submitted *prima facie* evidence in the form of an itemized and date-stamped return postcard that the application as filed on June 6, 2007 included 10 sheets of drawings and thus, was entitled to a filing date of June 6, 2007. See MPEP 503. Moreover, correction of the filing date to June 6, 2007 was properly sought by way of petition pursuant to 37 CFR 1.53(e)(2). Further, given that applicants had established Office error, the

[2] The Office initially assessed but later refunded an extension of time fee of $460. No extension of time was necessary to make this response timely.

petition fee was subject to refund. Accordingly, although authorized, no petition fee has been charged to petitioner's Deposit Account.

Technology Center AU 2623 has been advised of this decision. The application with a filing date of June 6, 2007 is, thereby, forwarded to the Technology Center for examination in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20100720

**DATE** : June 23, 2010

**TO SPE OF** : ART UNIT 1648

**SUBJECT** : Request for Certificate of Correction on Patent No.: 11810578

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:**

/JEFFREY STUCKER/
Supervisory Patent Examiner.Art Unit 1649

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Roger C. Turner
Suite 306
280 Cagney Ln.
Newport Beach CA 92663

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MAR 01 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Harry H. Arzouman | : | |
| Application No. 11/810,612 | : | DECISION ON PETITION |
| Filed: June 6, 2007 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 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 December 16, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 16, 2008. Accordingly, the date of abandonment of this application is December 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

**Gutman Levitan**
**Apt. 11**
**101 Grove Street**
**Stamford, CT 06901**

| | | |
|---|---|---|
| In re Application of | : | |
| Gutman Levitan | : | |
| Application No. 11/810,668 | : | DECISION ON PETITION |
| Filed: June 7, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 7, 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 driver's license. Accordingly, the above-identified application has been accorded "special" status.

The photocopy of applicant's driver's license is not legible. A statement made on behalf of applicant by his agent will be sufficient evidence to grant this petition.

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 2112 action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Hoffmann & Baron, LLP**
**6900 Jericho Turnpike**
**Syosset, NY 11791**

MAILED

MAY 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| David Lentz, et al. | : | |
| Application No. 11/810,755 | : | DECISION ON PETITION |
| Filed: June 7, 2007 | : | TO WITHDRAW |
| Attorney Docket No. S63.2N-14444-US04 | : | FROM RECORD |
| | : | |

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

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

A review of the file record indicates that the power of attorney to Hoffmann & Baron, LLP has been revoked by the assignee of the patent application on April 20, 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: **Vidas, Arrett & Steinkraus, P.A.**
**Suite 400, 6640 Shady Oak Road**
**Eden Prairie, MN 55344**

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OFFICE OF PETITIONS

BRUCE L. ADAMS, ESQ.
SUITE 1231
17 BATTERY PLACE
NEW YORK NY 10004

| | | |
|---|---|---|
| In re Application of | : | |
| Suzuki | : | |
| Application No. 11/810,769 | : | DECISION |
| Filed/Deposited: 7 June, 2007 | : | |
| Attorney Docket No. K036-6031 | : | |

This is a decision on the petition filed on 23 October, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

**Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c )(II).**

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 April, 2009, with reply due under a non-extendable deadline on or before 13 July, 2009.

The application went abandoned by operation of law after midnight 13 July, 2009.

The Office mailed the Notice of Abandonment on 6 August, 2009.

On 23 October, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of a request for continued examination with fee and a submission in the form of an IDS pursuant to 37 C.F.R. §1.114, and made the statement of unintentional delay. Petitioner failed to comply, however, with the reply requirements clearly set forth in the MPEP §711.03(c)(II), which provide in pertinent part:

***

**1. Abandonment for Failure To Pay the Issue Fee or Publication Fee**

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 C.F.R. §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 Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See *In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 C.F.R. §1.137 must include payment of the publication fee.

***

Petitioner had, however, authorized such fees as might be required to be charged to Deposit Account 01-0268, and those current fees are now charged as authorized.

**Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c )(II).**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

## CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2873 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

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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK, NY 10038

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Louis DeLyrot | : | |
| Application No. 11/810,775 | : | DECISION ON PETITION |
| Filed: June 7, 2007 | : | |
| Attorney Docket No. 16983 B | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 7, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 7, 2009. Accordingly, the date of abandonment of this application is July 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Victor Manuel Arredondo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619118 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,776 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Victor Manuel Arredondo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619119 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,778 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, Virginia 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Daisuke Muraoka | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626628 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/810,791 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **394** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**TOPE-MCKAY & ASSOCIATES**
**30765 PACIFIC COAST HIGHWAY #420**
**MALIBU CA 90265**

MAILED
MAY 10 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Moghaddam et al. | : | |
| Application No. 11/810,806 | : | ON PETITION |
| Filed: June 6, 2007 | : | |
| Attorney Docket No. CIT030 | : | |

This is a decision on the petition under 37 CFR 1.182, filed October 22, 2009, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Abbas Nasiraei Moghaddam
2. Morteza Gharib

This matter is now being referred to Technology Center AU 3737 for examination on the merits.

Telephone inquiries should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the TC.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/810,806 | 06/06/2007 | 3737 | 500 | CIT030 | 20 | 3 |

**CONFIRMATION NO. 4560**

**CORRECTED FILING RECEIPT**

28848
TOPE-MCKAY & ASSOCIATES
30765 PACIFIC COAST HIGHWAY #420
MALIBU, CA 90265

*OC000000041230314*

Date Mailed: 04/22/2010

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)**

Abbas Nasiraei Moghaddam, Pasadena, CA;
Morteza Gharib, San Marino, CA;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/811,278 06/06/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 07/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/810,806**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Method for obtaining strain from radially-tagged magnetic resonance imaging (MRI)

**Preliminary Class**

600

## 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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# BIB DATA SHEET

**CONFIRMATION NO. 4408**

| SERIAL NUMBER | FILING or 371(c) DATE | CLASS | GROUP ART UNIT | ATTORNEY DOCKET NO. |
|---|---|---|---|---|
| 11/810,837 | 06/06/2007<br>**RULE** | 363 | 2838 | 214512-1 |

**APPLICANTS**

Ravisekhar Nadimpalli Raju, Clifton Park, NY;
Richard S. Zhang, Rextord, NY;
Rajib Datta, Niskayuna, NY;
Allen Michael Ritter, Roanoke, VA;
Ljubisa Dragoljub Stevanovic, Clifton Park, NY;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
07/09/2007

| Foreign Priority claimed ☐ Yes ☑ No<br>35 USC 119(a-d) conditions met ☐ Yes ☑ No<br>Verified and Acknowledged /RAJNIKANT B PATEL/ Examiner's Signature | ☐ Met after Allowance<br>Initials | STATE OR COUNTRY | SHEETS DRAWINGS | TOTAL CLAIMS | INDEPENDENT CLAIMS |
|---|---|---|---|---|---|
| | | NY | 5 | 23 | 3 |

**ADDRESS**

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309
UNITED STATES

**TITLE**

Power conversion system with galvanically isolated high frequency link

| FILING FEE RECEIVED | | |
|---|---|---|
| 1150 | FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following: | ☐ All Fees<br>☐ 1.16 Fees (Filing)<br>☐ 1.17 Fees (Processing Ext. of time)<br>☐ 1.18 Fees (Issue)<br>☐ Other _____<br>☐ Credit |

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/810,841 | 06/07/2007 | Man-Young Jung | MJung.PlantPot | 4358 |

23616 7590 05/06/2008
LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

| EXAMINER |
|---|
| MANSEN, MICHAEL R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3644 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/06/2008 | 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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MAILED
FROM DIRECTORS OFFICE
MAY 06 2008
TECHNOLOGY CENTER 3600

FROM D...
MAY 06 2008
TECHNOLOGY CENTER 3600

Law Offices of Clement Cheng
17220 Newhope Street, #127
Fountain Valley, CA 92708

In re application of
Man-Young Jung
Application No. 11/810,841
Filed: June 7, 2007
For: CONSERVATION PLANT POT

**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is a decision on the petition filed on April 21, 2008 to make the above-identified application special for Environment and Energy 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 for Environment and Energy under 37 C.F.R. § 1.102(d) is not acceptable at least because the application was not filed electronically and the petition was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on April 21, 2008, the petition must be considered under the new guidelines and thus is properly **DENIED**.

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 Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.

Teri P. Luu,
Quality Assurance Specialist
Technology Center 3600

TL/tl: 05/05/2008

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**COPY MAILED**

DEC 10 2008

**OFFICE OF PETITIONS**

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

In re Application of :
Chris A. Rothe et al :
Application No. 11/810,850 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. NIDSNZ01301 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed July 12, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1175 extension of time submitted with the petition on October 10, 2008 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 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

MAR 29 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kim | : | |
| Application No. 11/810,859 | : | LETTER REGARDING |
| Filed: June 7, 2007 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. 12576-7078 | : | |
| Title: LIQUID CRYSTAL DISPLAY | : | |
| DEVICE | : | |

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed December 3, 2009. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected from four (4) days to an unspecified number of days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 0 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 3, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 4 days. Applicants give no basis for their request.

Nonetheless, a review of the application history supports a conclusion that Applicants are correct.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to

conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> "Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed"

A non-final Office action was mailed on February 2, 2009. A response was received on April 30, 2009, and an Information Disclosure Statement was subsequently received on May 6, 2009. It is noted that the above-referenced Information Disclosure Statement was not "accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement." See 37 CFR 1.704(d). Consequently, the patent term adjustment will be reduced by an additional 6 days (May 1, 2009 through May 6, 2009).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 0 (4 days of Office delay minus 6 days of Applicant delay) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 C.F.R. § 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

# PALM INTRANET

Date: 3/17/2010
Time: 14:24:16

| PTA Calculations for Application: 11/810859 | | | |
|---|---|---|---|
| Application Filing Date: | 06/07/2007 | PTO Delay (PTO): | 4 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 0 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 0 |
| PTO Delay Adjustment: | -6 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 48 | 03/17/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 6 | |
| 40 | 09/03/2009 | MAIL NOTICE OF ALLOWANCE | 4 | | 30 |
| 39 | 08/26/2009 | ISSUE REVISION COMPLETED | | | |
| 38 | 08/26/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 37 | 08/26/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 36 | 08/26/2009 | DOCUMENT VERIFICATION | | | |
| 35 | 08/26/2009 | NOTICE OF ALLOWABILITY | | | |
| 34 | 05/06/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 33 | 05/06/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 32 | 04/30/2009 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 31 | 06/16/2009 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 04/30/2009 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 29 | 05/06/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 28 | 02/02/2009 | MAIL NON-FINAL REJECTION | | | |
| 27 | 01/29/2009 | NON-FINAL REJECTION | | | |
| 26 | 11/25/2008 | DATE FORWARDED TO EXAMINER | | | |
| 25 | 11/17/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 24 | 11/17/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 23 | 09/17/2008 | MAIL RESTRICTION REQUIREMENT | | | |
| 22 | 09/15/2008 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 21 | 07/02/2008 | DATE FORWARDED TO EXAMINER | | | |
| 20 | 05/19/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 19 | 05/19/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 18 | 06/05/2008 | PG-PUB ISSUE NOTIFICATION | | | |
| 17 | 03/17/2008 | MAIL RESTRICTION REQUIREMENT | | | |
| 16 | 03/03/2008 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 13 | 12/11/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 12 | 12/06/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 11/09/2007 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 10 | 11/03/2007 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 9 | 06/07/2007 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 8 | 10/25/2007 | APPLICATION DISPATCHED FROM OIPE | | | |
| 7 | 07/09/2007 | SENT TO CLASSIFICATION CONTRACTOR | | | |
| 6 | 07/09/2007 | APPLICATION IS NOW COMPLETE | | | |
| 3 | 06/28/2007 | CLEARED BY OIPE CSR | | | |
| 2 | 06/22/2007 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 06/08/2007 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/810,909 | 06/07/2007 | Toshiaki Noguchi | 21269 | 5390 |

| EXAMINER |
|---|
| |

7590 11/18/2009
SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

| ART UNIT | PAPER NUMBER |
|---|---|
| 1797 | |

| 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Repin. Ref: 11/19/2009 NFARMER 2016210000
DAA:191013 Name/Number:11810909
FC: 9204 $323.03 CR

Adjustment date: 11/19/2009 NFARMER
06/11/2007 CNGUYEN2 00000000 11810909
02 FC:1111 -500.00 OP
04 FC:1202 -300.00 OP



FORM PET651G (Rev. 08/07)

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Mandel, et al.
Application No. 11/810,919
Filed: June 6, 2007
Attorney Docket No. 18512A-000150US
For: PERIPHERAL NERVOUS SYSTEM SPECIFIC SODIUM CHANNELS, DNA ENCODING THEREFOR, CRYSTALLIZATION, X-RAY DIFFRACTION, COMPUTER MOLECULAR MODELING, RATIONAL DRUG DESIGN, DRUG SCREENING, AND METHODS OF MAKING AND USING THEREOF

ON PETITION

This decision is mailed in response to the petition under 37 CFR 1.53(e), filed on March 4, 2009, requesting, in effect, withdrawal of the Notice of Omitted Items in a Nonprovisional Application (Notice), mailed December 4, 2008.

The petition under 37 CFR 1.53(e) is **dismissed**.

Any request for reconsideration of this decision should be filed within two (2) months of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

The application was filed on June 6, 2007. However, on December 4, 2008 the Office of Patent Application Processing mailed a Notice stating that the application had been accorded a filing date of June 6, 2007, but advising applicants that Figures 9C-9D and 11E, as described in the specification, appeared to have been omitted.

In response, on March 4, 2009, petitioners filed the present petition. Petitioners argue that at the time of the filing of the present application all figures in question, Figures 9C-9D and 11E, were submitted.

The Office file is the official record of what was filed on June 6, 2007. A review of the Office file reveals that 28 sheets of drawings are present. Figures 9C-9D and 11E are missing.

An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the statement supplied in the March 4, 2009 petition was made almost 2 ***years*** after the application was actually filed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioners are encouraged to submit their date stamped itemized postcard receipt.

Since petitioners have not provided persuasive evidence that Figures 9C-9D and 11E were among the papers filed on June 6, 2007, the application cannot be accorded a June 6, 2007 filing date those figures as a part of the originally filed application.

The petition is dismissed. The $400.00 petition fee is required and will be retained.

The application is being returned to the Office of Patent Applicant Processing for further processing with a filing date of June 6, 2007. It is noted that petitioners have submitted a substitute specification. Petitioners state that the figures have shifted in frames during the formalization and that there is no new matter. Figures 9A-9D are now Figures 9A-9C and Figures 11A-11E are now Figures 11A-11F. In accordance with this decision on petition, the matter found in former Figures 9C-9D and 11E and reproduced as part of the replacement figures will **not** be considered part of the application filed on June 6, 2007.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED
JAN 19 2010

In re Application of :
Mandel, et al. :
Application No. 11/810,919 : ON PETITION
Filed: June 6, 2007 :
Attorney Docket No. 18512A-000150US :
For: PERIPHERAL NERVOUS SYSTEM SPECIFIC SODIUM CHANNELS, DNA ENCODING THEREFOR, CRYSTALLIZATION, X-RAY DIFFRACTION, COMPUTER MOLECULAR MODELING, RATIONAL DRUG DESIGN, DRUG SCREENING, AND METHODS OF MAKING AND USING THEREOF

This decision is mailed in response to the renewed petition under 37 CFR 1.53(e), filed on June 1, 2009.

The petition is **granted**.

The application was filed on June 6, 2007. However, on December 4, 2008 the Office of Patent Application Processing mailed a Notice stating that the application had been accorded a filing date of June 6, 2007, but advising applicants that Figures 9C-9D and 11E, as described in the specification, appeared to have been omitted.

Petitioners have filed replacement drawings and a substitute specification via amendment. Petitioners state that the replacement drawings are identical in contents to the figures deposited with the originally filed application and that the new substitute specification serves to identify the replacement drawings in accordance with their numbering. Petitioners state the June 1, 2009 amendment contains no new matter. It appears that petitioners have accepted the application as deposited.

The application is being returned to the Office of Patent Applicant Processing for further processing with a filing date of June 6, 2007.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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KEVIN STEINACKER
STE. 1401
1201 PACIFIC AVE.
TACOMA, WA 98402

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Rebb Jones :
Application No. 11/810,923 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. 6085 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed July 9, 2007, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 10, 2007. On March 24, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for review of the drawings provided May 9, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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RAYMOND J. WERNER
2056 NW ALOCLEK DRIVE
SUITE 314
HILLSBORO, OR 97124

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JAN 1 4 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Morgan T. Johnson | : | |
| Application No. 11/810,951 | : | DECISION ON PETITION |
| Filed: June 6, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. Octavian.P008P | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred back to the Office of Initial Patent Examination to processing the reply to the Notice to File Corrected Papers (Notice) received November 28, 2007. The application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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**JOHN ALBERT EPPLE JR.**
**309 WEST 124TH STREET**
**KANSAS CITY, MO 64145**

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SEP 2 5 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Epple, John A. Jr. | : | |
| Application No. 11/810,955 | : | ON PETITION |
| Filed: June 7, 2007 | : | |
| Title: RENEWABLE ROTARY SKIN LANCET | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 7, 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, along with a copy of his birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3731 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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**Thomas A. O'Rourke**
**Bodner & O'Rourke**
**425 Broadhollow Road**
**Melville NY 11747**

MAILED
JUN 10 2010
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In re Application of :
Elisa Menday et al. :
Application No. 11/810,961 : DECISION ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 28, 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 June 29, 2008. A Notice of Abandonment was mailed on March 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received June 8, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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PATRICK STELLITANO
2803 INRIDGE DR.
AUSTIN TX 78745

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| | |
|---|---|
| In re Application of | : |
| Michael Foegelle | : |
| Application No. 11/810965 | : DECISION ON PETITION |
| Filed: 06/07/2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. ETSL002-US0 | : |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 21, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, was mailed on September 4, 2008. A duplicate copy of the corrected Filing Receipt accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2618 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/810,965 | 06/07/2007 | 2618 | 1430 | ETSL002-US0 | 22 | 4 |

**CONFIRMATION NO. 3872**

**CORRECTED FILING RECEIPT**

35359
PATRICK STELLITANO
2803 INRIDGE DR.
AUSTIN, TX 78745

*OC000000031861437*

Date Mailed: 09/04/2008

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)**

Michael Foegelle, Cedar Park, TX;

**Power of Attorney:**
Patrick Stellitano--42169

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/811,679 06/07/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 07/03/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/810,965**

**Projected Publication Date:** 12/11/2008

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Systems and methods for over-the-air testing of wireless systems

**Preliminary Class**

455

## 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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**DICKINSON WRIGHT, PLLC**
**1875 EYE STREET, NW**
**SUITE 1200**
**WASHINGTON, DC 20006**

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JUL 06 2010

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| | | |
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| In re Application of | : | |
| Joachim Charzinski | : | DECISION ON PETITION |
| Application No. 11/810,976 | : | TO WITHDRAW |
| Filed: June 7, 2007 | : | FROM RECORD |
| Attorney Docket No. 2006P11767US | : | |

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 31, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 6, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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RYNDAK & SURI LLP
200 W. MADISON STREET
SUITE 2100
CHICAGO IL 60606

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MAY 18 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Keith E. Antal, Sr. | : | |
| Application No. 11/810,992 | : | DECISION GRANTING PETITION |
| Filed: June 7, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 25570-51063-US | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 17, 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 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 concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3752 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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**A PROFESSIONAL CORPORATION**
**3310 AIRPORT AVENUE, SW**
**SANTA MONICA CA 90405**

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NOV 0 5 2007

**OFFICE OF PETITIONS**

In re Application of

**ROBERT AKKA et al.**
Application No. 11/811,047
Filed: June 07, 2007
Attorney Docket No. **REAL0142**

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 June 07, 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 Lipton Lenny's passport, attesting to his age. Accordingly, the above-identified application will be 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.

This application is being referred to the Office of Initial Patent Examination for processing.
This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

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**CASIMIR JONES, S.C.**
**2275 DEMING WAY, SUITE 310**
**MIDDLETON, WI 53562**

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OFFICE OF PETITIONS

In re Application of
**Hiroaki MATSUNAMI**, et al.
Application No. 11/811,050
Filed: June 8, 2007
Attorney Docket No. **DUKE-14653**

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 November 27, 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 31, 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 1649 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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**JOHN ALUMIT**
**16830 VENTURA BLVD. SUITE 360**
**ENCINO CA 91436**

**MAILED**

APR 16 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tsai Kingto | : | |
| Application No. 11/811,068 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | |
| Attorney Docket No. 22737-003 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 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 Notice of Non-Compliant Amendment mailed March 5, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 6, 2009. A Notice of Abandonment was mailed September 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, the request for the change in power of attorney has been accepted and the Notice enclosed. Further, the request for change of correspondence address has been accepted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The application file is being referred to Technology Center AU 3765 for appropriate action on the concurrently filed amendment.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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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 |
|---|---|---|---|
| 11/811,068 | 06/08/2007 | Tsai Kingto | 22737-003 |

**CONFIRMATION NO. 5100**

**POA ACCEPTANCE LETTER**

81841
John Alumit
16830 Ventura Blvd. Suite 360
Encino, CA 91436

*OC000000041151362*

Date Mailed: 04/16/2010

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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|---|---|---|
| In re Application of | : | |
| Darren T. Kimura et al. | : | |
| Application No. 11/811,073 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **627452000400** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 20, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw attorneys' individually when the power of attorney was originally granted by Customer Number in the Power of Attorney filed January 11, 2008. Also it is noted that the change in 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).

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 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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**ADAMS AND REESE, LLP**
**4400 ONE HOUSTON CENTER**
**1221 MCKINNEY STREET**
**HOUSTON TX 77010**

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Riadh M. M. AWNI | : | |
| Application No. 11/811,074 | : | DECISION ON PETITION |
| Filed: June 08, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 15188-3 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer No. 73896 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.

The Office will also 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 Form PTO/SB/83 will be modified to indicate that the Office will only accept 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.

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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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**JORDAN**

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STRASBURGER & PRICE, LLP
ATTN: IP SECTION
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SUITE 2200
HOUSTON TX 77010

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NOV 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert Soubaras | : | |
| Application No.: 11/811089 | : | ON PETITION |
| Filing or 371(c) Date: 06/08/2007 | : | |
| Attorney Docket Number: | : | |
| 10431-24 | : | |

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 31, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 30, 2009. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on May 1, 2009. A Notice of Abandonment was sent September 22, 2009.

Applicant files the present petition and Amendment in response to the Office action. 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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3663 for processing of the response to the Office action filed with the petition in the normal course of business.

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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| | | |
|---|---|---|
| In re Application of | : | |
| Darren T. Kimura et al. | : | |
| Application No. 11/811,109 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **627452000200** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 20, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw attorneys' individually when the power of attorney was originally granted by Customer Number in the Power of Attorney filed February 8, 2008. Also it is noted that the change in 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).

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 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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2820 FIFTH STREET
DAVIS CA 95618-7759

**MAIL**

JUL 26 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
LATOUR, PIERRE-OLIVER, et al
Serial No.: **11/811,119**
Filed: June 8, 2007
For: **METHOD AND APPARATUS FOR COMPARING PROGRAM GRAPHS**

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed, June 8, 2007, requesting acceptance of color drawings.

The petition requests that the colore drawings identified in figure 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with one set of color drawings in question.

The petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

APL-P5234US1

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
LATOUR, PIERRE-OLIVER, et al
Serial No.: **11/811,119**
Filed: June 8, 2007
For: **METHOD AND APPARATUS FOR COMPARING PROGRAM GRAPHS**

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed, June 8, 2007, requesting acceptance of color drawings.

The petition requests that the colore drawings identified in figure 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with one set of color drawings in question.

The petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DAVIS CA 95618-7759

| | | |
|---|---|---|
| In Re Application of<br>Pierre-Olivier Latour *et al.*<br>Application Serial No. 11/811,119<br>Filed: June 8, 2007<br>For: METHOD AND APPARATUS FOR<br>COMPARING PROGRAM GRAPHS | :<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO ACCEPT COLOR<br>DRAWINGS |

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed August 20, 2007, requesting acceptance of color drawing.

The petition requests that the color drawing, specifically identified as figure 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set fort under 37 C.F.R. § 1.17(h), three (3) sets of the color drawing in question, a black and white photocopy of said drawing, and specification must contain or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."*

All requirements have been met. Accordingly the petition is **GRANTED**.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Eva Maria Perez-Prat Vinuesa | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7629158 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,129 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/08/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **49** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**LAW OFFICES OF JAMES E. WALTON, PLLC**
**1169 N. BURLESON BLVD., SUITE 107-328**
**BURLESON TX 76028**

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**OFFICE OF PETITIONS**

In re Application of :
**GREENE**, Harold R. :
Application No. 11/811,134 :
Filed: June 8, 2007 :
Attorney Docket No. **1103JW-60637** :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 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 certificate of Honorable Discharge from the United States Navy of inventor Harold Ray Greene, 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 the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 3617 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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|---|---|---|
| In re Application of | : | |
| Rebecca S. Hoffman et al | : | |
| Application No. 11/811,141 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. BB1-292 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***he granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, was mailed on June 3, 2008.

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.

The application is being forwarded to Technology Center AU 1618 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Karen Creasy

Karen Creasy
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr : 12-07

WILMERHALE/BOSTON
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BOSTON MA 02109

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fortier | : | |
| Application No. 11/811,143 | : | DECISION |
| Filed: 8 June, 2007 | : | |
| Attorney Docket No. 2001726.00120US2 | : | |

This is a decision on the petition filed on 8 August, 2007, under 37 C.F.R. §1.47(b), and the petition filed on 10 August, 2007, under 37 C.F.R. §1.182.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**, and the the petition under 37 C.F.R. §1.182 is **DISMISSED**.

## BACKGROUND

The record indicates:

- the instant application was filed on 8 June, 2007, without, *inter alia*, a fully executed oath/declaration;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- on 10 July, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 8 August, 2007, Petitioner Richard Goldenberg (Reg. No. 38,895) filed, *inter alia*, the instant petition under 37 C.F.R. §1.47(b)—albeit in the name of Alan Davis the averred CEO of assignee Communication Technology LLC (CT LLC), with documents, including letters of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor John Fortier (Mr. Fortier and an oath/declaration signed by Mr. Davis in the absence of Mr. Fortier and Mr. Fortier's failure to sign/join, along with averments and documents supporting evidence of an interest in the application and risk of irreparable harm/damage on failure to prosecute same, all consistent with the showing and procedure set forth in the guidance in the Commentary at MPEP §409, et seq.;

- on 10 August, 2007, Petitioner filed the petition under 37 C.F.R. §1.182 to withdraw the petition under 37 C.F.R. §1.47(b), in that Mr. Fortier had signed and joined in the oath/declaration of the application—in support thereof, Petitioner submitted a copy of the oath/declaration executed by Mr. Fortier;

- thus, it now appears that the oath/declaration has been signed by sole inventor.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

In view of the joinder of the inventor, further consideration under Rule 1.47 is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47.

## CONCLUSION

For the foregoing reasons, the petition under 37 C.F.R. §1.47(b) is **dismissed as moot for joinder**, and the petition under 37 C.F.R. §1.182 is **dismissed as moot**.

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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6 The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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Paper No.

JUN 02 2010

OFFICE OF PETITIONS

LAMORTE & ASSOCIATES P.C.
P.O. BOX 434
YARDLEY PA 19067

| | | |
|---|---|---|
| In re Application of | : | |
| Alliss | : | |
| Application No. 11/811,172 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | PURSUANT TO |
| Attorney Docket No.: 44-8 | : | 37 C.F.R. § 1.137(B) |
| Title: LINE HOLDING SYSTEM | : | |
| FOR FIXED LINE TRIMMER HEAD | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 10, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The concurrently submitted Power of Attorney and Correspondence Address Indication Form has been entered and made of record.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed July 24, 2009, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 25, 2009. A notice of abandonment was mailed on February 2, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an election of species, an amendment, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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 election of species that was received on February 10, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OCT 25 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>David D. Pettigrew, Jr.<br>Application No. 11/811184<br>Filing or 371(c) Date: 06/09/2007<br>Title of Invention: SYSTEM FOR REDUCING ELECTRICAL WIRING IN COMPLEX APPARATUS, SUCH AS VEHICLES AND AIRCRAFT | :<br>:<br>:<br>:<br>:<br>:<br>:<br>: | DECISION<br>ON PETITION |

This is a decision on the "Petition to Accept Fig. 21 and Keep Original Filing Date of Record, filed August 20, 2007, requesting the above-identified application be accorded a filing date of June 9, 2007, including drawing Fig. 21. The petition is properly treated under 37 CFR 1.182.

The petition is dismissed.

**Background**

Application papers were filed in the above-identified application on June 9, 2007. On July 12, 2007, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had been accorded a filing date; however, Figure 21 described in the specification appeared to have been omitted from the application.

Applicant responds with the present petition and requests inclusion of the inadvertently omitted Figure. In support of this request, Applicant states that he made a copy of the application prior to filing and that the copy contains the omitted Figure. Applicant also states that the omitted Figure is identical to Figure 21 submitted in a prior application, serial no. 11/020,957. As such, Applicant avers that this Office already has on file a copy of the omitted Figure. Applicant requests this Office accept the copy of Fig. 21 filed with the present petition and accord Fig. 21 a filing date of June 9, 2007.

**Applicable Law, Rules and MPEP**

The Manual of Patent Examining procedure ("MPEP") provides as follows:

> If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard.
> Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.
> The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail.
> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate

> component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

In this instance, Applicant has not included a return-receipt postcard. As such, Applicant has failed to demonstrate the filing of Fig. 21 on June 9, 2007.

Regarding Applicant's assertion that he made a copy of the application prior to filing and that the copy contains the omitted Figure, Applicant is advised that the USPTO file is the official record of the papers actually received or filed. The file does not contain a copy of Fig. 21. Applicant's recollection of events that had occurred more than two months prior to the filing of the application papers is not more persuasive than Office records.

Regarding Applicant's assertion, that Fig. 21 is on file in application serial no. 11/020,957, Applicant is advised that 37 CFR 1.4(b) requires each application to be complete in itself. That section states:

> 37 CFR 1.4. Nature of correspondence and signature requirements.
> (b) Since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical. The filing of duplicate copies of correspondence in the file of an application, patent, or other proceeding should be avoided, except in situations in which the Office requires the filing of duplicate copies. The Office may dispose of duplicate copies of correspondence in the file of an application, patent, or other proceeding. (Emphasis supplied).

Here, the present application may not rely upon the presence of Fig. 21 in a separate application for inclusion into this application, unless the prior application was incorporated by reference. Further to this, a review of the application file does not reveal that applicant incorporated by reference the prior application, either explicitly of via a priority claim. As such, Applicant may not add Fig. 21 under 37 CFR 1.57.

The Notice provided Applicant with three options as follows[1]:

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[1] See, 72 Fed. Reg. 2770; 1315 OG 103 (13 Feb. 2007); Change in Procedure for Handling Nonprovisional Applications Having Omitted Items (signed 29 January 2007) at http://www.uspto.gov/web/offices/com/sol/notices/72fr2770.pdf

(1) Petition for the date of deposit by filing a petition under 37 CFR 1.53(e) asserting that the omitted item was in fact deposited in the Office, along with evidence of such deposit (e.g. a date-stamped itemized postcard receipt) and the petition fee;

(2) Petition for a later filing date by filing the omitted item, along with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item, a petition under 37 CFR 1.182 and the petition fee, requesting the date of such submission as the application filing; or

(3) Accept the application as deposited in the USPTO, and file the appropriate amendment (e.g., a substitute specification).

Applicant files the present petition for the date of deposit of June 9, 2007 for Fig. 21; however, Applicant has not provided adequate evidence of said deposit.

**Conclusion**

Applicant has failed to demonstrate that Fig. 21 was included among the application papers filed in this Office on June 9, 2007. As such, Fig. 21 may not be accorded a filing date of June 9, 2007.

Applicant is advised that the Inventor's Assistance Center is available to provide inventor assistance, at 1-800-786-9199, for assistance in prosecuting the patent application. Applicant is further advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David D. Pettigrew, Jr.
Suite 154
5818 Wilmington Pike
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FEB 06 2008

**OFFICE OF PETITIONS**

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| In re Application of | : | DECISION |
| David D. Pettigrew, Jr. | : | ON PETITION |
| Application No. 11/811184 | : | |
| Filing or 371(c) Date: 06/09/2007 | : | |
| Title of Invention: SYSTEM FOR | : | |
| REDUCING ELECTRICAL WIRING | : | |
| IN COMPLEX APPARATUS, SUCH | : | |
| AS VEHICLES AND AIRCRAFT | : | |

This is a decision on the "Petition to Accept Fig. 21 and Keep Original Filing Date of Record, filed November 23, 2007, requesting the above-identified application be accorded a filing date of June 9, 2007, including drawing Fig. 21. The petition is properly treated as a renewed petition under 37 CFR 1.182.

The petition is granted.

Background

Application papers were filed in the above-identified application on June 9, 2007. On July 12, 2007, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had been accorded a filing date; however, Figure 21 described in the specification appeared to have been omitted from the application.

The August 20, 2007 petition

Applicant responded to the Notice on August 20, 2007 with a petition wherein Applicant requested inclusion of the inadvertently omitted Figure.

The petition was dismissed in a Decision mailed October 25, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.182.

The present renewed petition

Applicant files the present renewed petition and includes a copy of his return receipt postcard acknowledging receipt of, *inter alia,* thirty-one drawing figures – 29 pages, by this Office on June 9, 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.

Conclusion

Accordingly, the petition is granted.

The copy of Figure 21, filed with the present petition, will be used for examination purposes.

A refund of the petition fees has been scheduled via Treasury Check.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 9, 2007, and an indication that Figure 21 described in the specification was included with the application papers filed on June 9, 2007, using the copy of Figure 21 filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

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HARTFORD CT 06103

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John Godber and Amr Shaheed | : | |
| Application No. 11/811,199 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | PURSUANT TO |
| Attorney Docket Number: : | : | 37 C.F.R. § 1.47(A) |
| 99342.00094 | : | |
| Title: CALCIUM FORTIFICATION | : | |
| SUBSTANCE FOR CLEAR BEVERAGES | : | |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a)[1], filed February 26, 2008.

This petition pursuant to Rule § 1.47(a) is **DISMISSED**.

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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.

On June 8, 2007, the application was filed, identifying John Godber and Amr Shaheed as joint inventors. The application was deposited without an executed declaration. On July 26, 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 this petition, Petitioner has included a declaration that has been signed by Mr. Shaheed and the fee that is associated with the late submission of the same, the last known address of the non-signing inventor, the petition fee, a statement of facts, and an assertion that Mr. Godber has refused to execute this declaration. Petitioner has further included a five-month extension of time so as to make timely this response.

Petitioner has met requirements (1) - (3) and (5) of Rule 1.47(a). The fourth requirement has not been met.

Petitioner has stated that the non-signing inventor is presently in litigation with his former employer, and that "a copy of the Declaration and Power of Attorney and Assignment" were sent from a Senior Paralegal employed by the former employer to Mr. Godber's "attorney of record," who then forwarded these materials to Mr. Godber's "new counsel[2]."

**Regarding the fourth requirement** of Rule 1.47(a), it does not appear that a **complete copy of the application** was sent **directly to Mr. Godber's current counsel**.

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].

It follows that since it has not been shown that a complete copy of the application was sent to the non-signing inventor, via his attorney, 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

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2 Petition, page 2. See also Santelli declaration of facts, paragraph 5.
3 See M.P.E.P. § 409.03(d).

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].

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.

**Before filing the renewed petition, Petitioner should have a complete copy of the application sent directly to the non-signing inventor's current counsel, and provide him with a reasonable period of time to respond.**

**Petitioner should include a statement of facts from the individual who sent the application to the non-signing inventor's current counsel, as 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.**

The renewed petition 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 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.

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4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
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.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[9].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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
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JUN 16 2008
OFFICE OF PETITIONS

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| In re Application of<br>John Godber and Amr Shaheed<br>Application No. 11/811,199<br>Filed: June 8, 2007<br>Attorney Docket Number:<br>99342.00094<br>Title: CALCIUM FORTIFICATION<br>SUBSTANCE FOR CLEAR BEVERAGES | DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) AS MOOT |

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed May 21, 2008.

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 June 8, 2007, the application was filed, identifying John Godber and Amr Shaheed as joint inventors. The application was deposited without an executed declaration. On July 26, 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.

An original petition was filed on February 26, 2008, which was dismissed via the mailing of a decision on March 31, 2008.

With this renewed petition, Petitioner has included a declaration that has been executed by this previously non-signing inventor. It is noted that November 4, 2007 fell on a Sunday.

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 Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing. 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[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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**OFFICE OF PETITIONS**

**SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION**
**3310 AIRPORT AVENUE, SW**
**SANTA MONICA CA 90405**

| | | |
|---|---|---|
| In re Application of | : | |
| **LIPTON**, et al. | : | |
| Application No. 11/811,234 | : | DECISION ON PETITION |
| Filed: June 7, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **REAL0144** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 7, 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 passport of inventor Leonard Lipton, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2621 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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**TRIANGLE PATENTS, P.L.L.C.**
**P.O. BOX 28539**
**RALEIGH NC 27611-8539**

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FEB 2 9 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **KRUEGER,** Richard C. | : | |
| Application No. 11/811,247 | : | DECISION ON PETITION |
| Filed: June 08, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **4008-004** | : | FROM RECORD |

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 14, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 JiNan Glasgow on behalf of all attorneys of record who are associated with customer No. 64843. All attorneys/agents associated with the Customer Number 64843 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Richard Krueger at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RICHARD C. KRUEGER**
**9112 PENNY ROAD**
**RALEIGH, NC 27606**

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. |
|---|---|---|---|---|
| 11/811,248 | 06/07/2007 | Joseph E. Kotwis | AD7404 USNA | 6589 |

7590 07/13/2009
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

| EXAMINER |
|---|
| HUSON, MONICA ANNE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/13/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/13/2009 NFARMER
06/12/2007 BABRAHA1 00000023 041928 11811248
02 FC:1111 500.00 CR
04 FC:1202 550.00 CR
05 FC:1201 200.00 CR



FORM PET651G (Rev. 08/07)

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

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JUL 01 2009

OFFICE OF PETITIONS

In re Application of :
Thilo Metzner, et al. :
Application No. 11/811,251 : ON PETITION
Filed: June 8, 2007 :
Attorney Docket No. 00375P0002DEUS:

This is a decision in response to the petition filed April 15, 2008, which is treated as a petition under 37 CFR 1.10(e), requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **granted**.

The application was held abandoned for a failure to timely respond to a Notice to File Corrected Application Papers mailed July 12, 2007, which set a two-month period for response. Accordingly, a reply was due on or before September 12, 2007.

Petitioner argues that a timely response was filed and request that the abandonment be withdrawn. Petitioner explains that the corrected drawings in response to the Notice to File Corrected Application Papers mailed July 12, 2007 were originally deposited in "Express Mail" service with the United States Postal Service (USPS) on September 4, 2007. Petitioner notes that the itemized postcard was not received from the USPTO. A copy the of the Express Mailing Receipt No. EM 080695074 US showing a date in of September 4, 2007, has been provided, as well as a copy of the drawings and transmittal letter, which includes a Certificate of Express Mailing bearing the same receipt number.

37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition is found to comply with the above requirements. The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been filed pursuant to 37 CFR 1.10 on September 4, 2007.

The Notice of Abandonment is hereby <u>vacated</u> and the holding of abandonment <u>withdrawn</u>.

The application is being referred to the Office of Patent Application Processing (OPAP) for pre-exam processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Josef Theurer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7587981 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,255 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/08/2007 | : 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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**KELLEY DRYE & WARREN LLP**
**400 ATLANTIC STREET,**
**13TH FLOOR**
**STAMFORD CT 06901**

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OFFICE OF PETITIONS

In re Application of

**ZIDAR,** Jakob
Application No. 11/811,267
Filed: June 08, 2007
Attorney Docket No. **ABP-113(US)**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 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 all of the acts noted in the above-identified certifications have been performed. Items one (1) and two (2) of the above certifications have not been certified.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JAKOB ZIDAR**
**MAXIMILIANSTRASSE 19/1**
**A-4813 ALTMUNSTER**
**AUSTRIA**

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| | | |
|---|---|---|
| In re Application of | : | |
| Darren T. Kimura et al. | : | |
| Application No. 11/811,329 | : | DECISION ON PETITION |
| Filed: June 8, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **627452000100** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 20, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw attorneys' individually when the power of attorney was originally granted by Customer Number in the Power of Attorney filed December 17, 2007. Also it is noted that the change in 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).

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 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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10411 Clayton Road, Suite 304
St. Louis, MO 63131

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Thomas G. Gant, et. al. | : | |
| Application No. 11/811,377 | : | ON PETITION |
| Filed: June 7, 2007 | : | |
| Attorney Docket No. APX0022-201-US | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2009, to revive the above-identified application.

This application became abandoned for failure to file a response to the Notice to File Missing Parts of Non-provisional Application mailed July 19, 2007. A Notice of Abandonment was mailed on September 16, 2008.

As authorized, the $65 surcharge will be charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed oath/declaration along with the $65 surcharge; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
AH9510
100 N.E. ADAMS
PEORIA, IL 61629-9510

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APR 20 2010
OFFICE OF PETITIONS

Applicant: Benz, et al.
Appl. No.: 11/811,411
Filing Date: June 8, 2007
Title: PROCESS FOR DETERMINING WHETHER USED FRICTION ELEMENTS MAY BE RETURNED TO SERVICE
Attorney Docket No.: 06-587
Pub. No.:2008/0302705 A1
Pub. Date: December 11, 2008

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on January 9, 2009, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains a material error wherein an incorrect set of drawings was published.

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 Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kathrin Berkner | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599095 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,414 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **56** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

AP

JUL 23 2007

| | |
|---|---|
| In re Application of<br>W. Thomas McClellan<br>Serial Number: 11/811,428<br>Filed: June 08, 2007<br>For: HIGH-EFFICIENCY WATER HEATER DIP TUBE AND METHOD FOR REDUCING TURBULENCE IN WATER HEATERS | DECISION ON PETITION UNDER M.P.E.P. 708.02(IV) |

This is in response to the petition filed June 08, 2007, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c)

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is GRANTED.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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GENERAL MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Eugene V. Gonze | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594940 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,450 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/08/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **84** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**PRICE & ADAMS, P.C.**
**4135 BROWNSVILLE ROAD**
**P.O. BOX 98127**
**PITTSBURGH PA 15227-0127**

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JUN 16 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **DEVALL**, Donald L. | : | |
| Application No. 11/811,454 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **9203** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 27, 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 the birth certificate of inventor Donald L. Devall, 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 AU 3672 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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**Jun Feng**
**150 Allston St.**
**Cambridge MA 02139**

MAILED

MAY 12 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jun Feng et al. | : | |
| Application No. 11/811,466 | : | DECISION ON PETITION |
| Filed: June 10, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 16, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a photocopy of passport of inventor Jun Feng as proof of age. The above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**JOANN VILLAMIZAR**
**CIBA CORPORATION/PATENT DEPARTMENT**
**540 WHITE PLAINS ROAD**
**P.O. BOX 2005**
**TARRYTOWN, NY 10591**

COPY MAILED

SEP 04 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Scheffler et al. | : | |
| Application No. 11/811,469 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | |
| Attorney Docket No. PW/3-22790/A/PCT/DIV | : | |

This is a decision on the petition, filed August 21, 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 is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed February 12, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 21, 2008.

Petitioner asserts that the Office action dated February 12, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1796 for re-mailing the Office action of February 12, 2008. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

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**RALPH F. MANNING, ESQ.**
**TUCKER ARENSBERG, P.C.**
**1500 ONE PPG PLACE**
**PITTSBURGH PA 15222**

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JUN 23 2008
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **TANZER,** Michael D. | : | |
| Application No. 11/811,486 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **023369-130501** | : | FROM RECORD |

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 09, 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 Lee Kim on behalf of all attorneys of record who are associated with customer No. 31922. All attorneys/agents associated with the Customer Number 31922 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 Michael Tanzer at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL TANZER**
**1155 SHADY AVENUE**
**PITTSBURGH PA 15232**

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**MEYER UNKOVIC & SCOTT LLP**
**1300 OLIVER BUILDING**
**PITTSBURGH PA 15222**

**COPY MAILED**

MAR 0 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| George Rademacher | : | |
| Application No. 11/811,512 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 276972.100NP | : | 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 from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3633 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YIZHONG SUN
30152 Galbreth Court
Castaic CA 91384

AUG 16 2007

In re Application of: SUN
Serial No.: 11/811,521
Filed: June 11, 2007
Title: REMOVABLE FLAME HEAT REGULATING APPARATUS INCLUDING AN INNER HOLLOW SHELL AND AN OUTER WALL FOR A BURNER OF A GAS STOVE

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 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 **DENIED**.

## REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed electronically using the USPTO's electronic filing

system (EFS), or EFS-web. See condition 2 above. Further, no statement asserting that EFS and EFS-web were not available during the normal business hours has been provided. Additionally, the application contains more than twenty total claims. See condition 5 above. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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**JERRY STARTZELL**
**133 SEA VIEW DRIVE**
**PORT ANGELES WA 98362**

**COPY MAILED**

OCT 1 4 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **STARTZELL,** Jerry D. et al. | : | |
| Application No. 11/811,540 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 000 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 16, 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 Jerry Startzell attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3652 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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PATENT SERVICES
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MORRISTOWN, NJ 07962-2245

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Thomas Y-T Tam, et al.
Application No. 11/811,570
Filed: June 8, 2007
Attorney Docket No. H0009893

ON PETITION

This is a decision in response to the petition, filed June 16, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 13, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 14, 2009. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received June 16, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas Y-T. Tam | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638191 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,570 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/08/2007 | : 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. |
|---|---|---|---|---|
| 11/811,587 | 06/11/2007 | Mitsugu Matsuyama | 68396(71719) | 7737 |

7590 06/22/2009
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2193 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/22/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 06/24/2009 NFARMER
06/13/2007 EHAILE1 00000015 041105 11811587
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**ANSEL M. SCHWARTZ**
**ATTORNEY AT LAW**
**SUITE 304**
**201 N. CRAIG STREET**
**PITTSBURGH PA 15213**

**MAILED**

MAY 18 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ricardo J. MORO | : | |
| Application No. 11/811,590 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | |
| Docket No. MORO-1 CONT IV | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 22, 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 September 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**JOHN MCCULLOCK**
**5291 COLONY DRIVE NORTH,**
**STE. 1**
**SAGINAW, MI 48638**

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MAR 09 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Joseph M. ROHDE et al | : | |
| Application No. 11/811,591 | : | DECISION ON PETITION |
| Filed June 11, 2007 | : | TO WITHDRAW |
| Attorney Docket No. | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 29, 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 Carole L. Williams on behalf of John K. McCulloch the sole attorney of record who is currently deceased.

John K. McCulloch has 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: JOSEPH M.. ROHDE
1240 N. OUTER DRIVE
SAGINAW, MI 48601

cc: GREEN CORE TECHNOLOGIES, LLC
1090 DORIS ROAD
AUBURN HILLS, MI 48326

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**BRINKS HOFER GILSON & LIONE**
**P.O. BOX 10395**
**CHICAGO IL 60610**

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JAN 27 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Rawal et al. | : | |
| Application No. 11/811,610 | : | ON PETITION |
| Filed: June 11, 2007 | : | |
| Attorney Docket No. 7814/189 | : | |

This is a decision on the petition under 37 CFR 1.181, filed April 15, 2008, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice), mailed July 30, 2007, which set a shortened statutory period for reply of two (2) months. A reply was due on or before September 30, 2007. A Notice of Abandonment was mailed on February 15, 2008.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on November 5, 2007 of 1. Transmittal (in duplicate); 2. Response to Notice to File Corrected Application Papers and Supplemental Preliminary Amendment; 3. Copy of Notice to File Corrected Application Papers; 4. Marked Up Copy of Substitute Specification (70 pp.); 5. Clean Copy of Substitute Specification (59 pp.); 6. Petition and Fee for Two (2) Month Extension of Time; and 7. Return Receipt Postcard. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of October 31, 2007.

The reply acknowledged as having been received in the USPTO on November 5, 2007 (certificate of mailing date of October 31, 2007) has been located in the application file.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing. Thereafter, the application will be referred to Technology Center AU 1625 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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**PATULA & ASSOCIATES, P.C.**
**116 S. MICHIGAN AVE., 14TH FLOOR**
**CHICAGO, IL 60603**

**COPY MAILED**

JUL 16 2009

**OFFICE OF PETITIONS**

In re Application of

**George GRBIC**
Application No. 11/811,612
Filed: June 11, 2007
Attorney Docket No. **5388/55780**

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 7, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Timothy T. Patula 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 Office action mailed March 9, 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: **GEORGE GRBIC**
**5337 S. ELLIS, UNIT 3C**
**CHICAGO, IL 60615**

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**HONEYWELL INTERNATIONAL INC.**
**PATENT SERVICES**
**101 COLUMBIA ROAD**
**P. O. BOX 2245**
**MORRISTOWN NJ 07962-2245**

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MAR 12 2010

| | | |
|---|---|---|
| In re Patent No. 7,537,165 | : | |
| Issue Date: May 26, 2009 | : | |
| Application No. 11/811,652 | : | ON PETITION |
| Filed: March 2, 2007 | : | |
| Attorney Docket No. H28793 | : | |

This is a decision on the petition under 37 CFR 1.182, filed January 23, 2009, to correct the name of the inventor. A renewed/withdrawal was subsequently filed on February 22, 2010.

The petition is **DISMISSED AS BEING MOOT**.

At the request of the petitioner the petition under 37 CFR 1.182 to correct the name of the inventor as set forth in the February 22, 2010 communication, the petition is dismissed as being moot.

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 related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Thomas J. Perkowski, Esq.
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

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PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ronald K. Eyre | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604074 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/811,671 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/11/2007 | : 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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DIW Feb-08

KOLISCH HARTWELL, P.C.
520 SW YAMHILL STREET, Suite 200
PORTLAND OR 97204

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FEB 21 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Payne, Holst, and Agostina | : DECISION ACCORDING STATUS |
| Application Number: 11/811681 | : UNDER 37 CFR 1.47(a) |
| Filing Date: 06/11/2007 | : |
| Attorney Docket Number: MAT | : |
| 3Z084 | : |

This is in response to the petition under 37 CFR 1.47(a) filed on January 14, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Matt Agostina, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown that a copy of the application was sent to the last known address for the non-signing inventor. The non-signing inventor failed, however, to sign and return the declaration naming him as a joint inventor along with Julian Payne and Felix Holst.

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 petition fee of $200.00 will be charged to counsel's deposit account, as authorized in the present petition.

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

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Matt Agostina
101 Monterey Blvd., Apt. 12
Hermosa Beach CA 90245

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**OFFICE OF PETITIONS**

In re Application of
Payne et al.
Application No. 11/811,681
Filed: 06/11/2007
For: TOY TRACK DEVICES

Dear Mr. Agostina:

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

KOLISCH HARTWELL PC
520 SW YAMHILL STREET, STE. 200
PORTLAND OR 97204

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1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Martin Kreuzer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591480 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/811,769 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Application of
Robert L. Nevins

Application No. 11811812

Filed: June 12,2007

Attorney Docket No. 17003 B

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 05-MAY-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 (04-09)
Approved for use through 05/31/2009. 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 | 11/811,812 | Confirmation Number | 9261 | Filing Date | 2007-06-12 |
| Attorney Docket Number (optional) | 17003 B | Art Unit | 3633 | Examiner | Daniel J Kenny |
| First Named Inventor | Robert L. Nevins | | | | |
| Title of Invention | WINDOW FOR ABSORBING SUNLIGHT HEAT IN WARM WEATHER THAT OTHERWISE WOULD FLOW, ETC | | | | |

**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 |
|---|---|---|---|
| Robert | Lee | Nevins | |

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 | /CharlesEBaxley/ | Date (YYYY-MM-DD) | 2009-05-05 |
| Name | Charles E. Baxley | Registration Number | 20149 |

PTO/SB/130 (04-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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# 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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**RAYMOND J. WERNER**
**2056 NW ALOCLEK DRIVE, SUITE 314**
**HILLSBORO OR 97124**

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**OFFICE OF PETITIONS**

In re Application of :
**JOHNSON**, Morgan T. :
Application No. 11/811,874 : DECISION ON PETITION
Filed: June 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **Octavian.P018** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 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 Morgan T. Johnson, 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 571-272-2800.

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 2829 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Morgan T. Johnson | : | |
| Application No. 11/811,880 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. Octavian.P017 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 23, 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 2897 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309-3521

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OCT 18 2007

**OFFICE OF PETITIONS**

In re Application of
James W. Kronberg et al.
Application No. 11/811,903
Filed: June 11, 2007
Attorney Docket No. 54116-0055 (13718-105056)

: DECISION GRANTING PETITION

This is a decision on the petition filed September 26, 2007 in response to the Notice of Incomplete Nonprovisional Application mailed July 30, 2007, requesting that the above identified application be accorded a filing date of June 11, 2007. The petition is being treated under 37 CFR 1.53.

After the filing of the application, on July 30, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition and 17 sheets of drawings, were filed. Petitioners argue that the drawings were filed with the other application papers on June 11, 2007. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of June 11, 2007, and the above-identified application number, and acknowledges receipt of, *inter alia*, 17 sheets of drawings, was supplied with the present petition. Petitioner requests that the application, including the drawings, be accorded a filing date of June 11, 2007.

Upon review, the drawings purportedly deposited on June 11, 2007 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 11, 2007, included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 17 sheets of drawings, was complete on filing and entitled to a filing date of June 11, 2007.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed July 30, 2007, is withdrawn. The petition fee paid in the amount of $400.00 will be credited to deposit account no. 11-0980.

This matter is being referred to the Office of Patent Application Processing for reprocessing with a filing date of June 11, 2007, using the application papers filed on June 11, 2007 and the drawings supplied on September 26, 2007.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

In re Application of :
Struhsaker et al. :
Application No. 11/811,910 :
Filed: June 12, 2007 :
Attorney Docket No. WEST14-00134 :
For: Time Division Duplex Wireless :
Network and Associated Method :
Using Modulation Groups :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 15, 2008.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner submitted $130 for the petition fee. The required petition fee for a petition under 37 CFR 1.47 is $200. Therefore, $70 has been charged to petitioner's deposit account.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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|---|---|---|
| In re Application of | : | |
| **STRUHSAKER,** Paul F. et al. | : | |
| Application No. 11/811,910 | : | DECISION ON PETITION |
| Filed: June 12, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **WEST14-00134** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 T. Mockler on behalf of all attorneys of record who are associated with customer No. 23990. 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: **PAUL F. STRUHSAKER**
**11520 EAGLES GLEN**
**AUSTIN, TEXAS 78732**

cc: **MR. MICHAEL S. HYNEK**
**17519 MUIRFIELD DRIVE**
**DALLAS, TEXAS 75287**

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SAN FRANCISCO, CA 94105

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| | | |
|---|---|---|
| In re Application of | : | |
| Craig Hashi, et al. | : | |
| Application No. 11/811,923 | : | DECISION ON PETITION |
| Filed: June 11, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. 061818-02-5053-US01 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application No. 60/763,111, filed January 27, 2006.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of***

***priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

It is noted that an updated Filing Receipt, which includes the priority claim to the prior-filed provisional application, was mailed on June 3, 2008.

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.

The application is being forwarded to Technology Center AU 1615 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DALLAS TX 75380

| | | |
|---|---|---|
| In re Application of | : | |
| Struhsaker, et al. | : | DECISION ON PETITION |
| Application No.: 11/811,945 | : | |
| Filed: 12 June, 2007 | : | |
| Attorney Docket No.: WEST14-00136 | : | |

This is the decision in response to the petition under 37 C.F.R. §1.47(a), filed on 15 February 2008.

The petition under 37 C.F.R. §1.47(a), is **GRANTED.**

Petitioner has shown that the non-signing inventor has not replied and thus constructively has refused to sign/join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a). This application is hereby accorded Rule 1.47(a) status.

The record reflects that: Petitioner demonstrates that the entire application—description, claims, abstract and drawings—was sent to and received at the last known residence address the non-signing inventor (or through the Counsel of the non-signing inventor), and that the non-signing inventor has since failed and, thus, constructively refused to join in the filing of the above-identified application.

> **NOTE**: While the 16 January, 2008, letter of transmittal to Michael S. Eckert appears to (incorrectly) reflect the destination ZIP Code as "78276," the Confirmation of Delivery obtained by the Office from the U.S. Postal Service (USPS) Track & Confirm website on

14 June, 2008—and now included into the record and made a part hereof—clearly indicates the delivery destination ZIPO Code as "78726." The Office further confirmed with the USPS ZIP Code website that the appropriate 78726 is the appropriate ZIP Code for Mr. Eckert's address, which Petitioner has set forth as 10637 Bramblecrest Drive, Austin, TX.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **granted**.

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing in due course.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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JUN 19 2008

OFFICE OF PETITIONS

MICHAEL S. ECKERT
10637 BRAMBLECREST DRIVE
AUSTIN, TX 78726

| | | |
|---|---|---|
| In re Application of | : | |
| Struhsaker, et al. | : | COMMUNICATION |
| Application No.: 11/811,945 | : | |
| Filed: 12 June, 2007 | : | |
| Attorney Docket No.: WEST14-00136 | : | |

Dear Michael S. Eckert:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/ ).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

While telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s). Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

[1] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

## Gillon, John

**From:** U.S._Postal_Service_ [U.S._Postal_Service@usps.com]
**Sent:** Saturday, June 14, 2008 2:30 PM
**To:** Gillon, John
**Subject:** U.S. Postal Service Track & Confirm email Restoration - 7160 3901 9849 7566 8124

This is a post-only message. Please do not respond.

John Gillon has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: 7160 3901 9849 7566 8124

Service Type: Certified

| Shipment Activity | Location | Date & Time |
|---|---|---|
| Delivered | AUSTIN TX 78726 | 01/19/08 1:20pm |

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

UNITED STATES POSTAL SERVICE.

http://zip4.usps.com/zip4/zcl_0_results.jsp

USPS Home | FAQs

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AUSTIN TX 78726-1906

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**Docket Clerk**
**P.O. Drawer 800889**
**Dallas, TX 75380**

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MAR 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Paul F. Struhsaker, et al. | : | |
| Application No. 11/811,945 | : | DECISION ON PETITION |
| Filed: June 12, 2007 | : | TO WITHDRAW |
| Attorney Docket No. WEST14-00136 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 T. Mockler on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Paul F. Struhsaker**
**5304 Brouette Court**
**Plano, TX 75023**

cc: **Mr. Michael S. Hynek**
**17519 Muirfield Drive**
**Dallas, TX 75287**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/811,945 | 06/12/2007 | Paul F. Struhsaker | WEST14-00136 |

**CONFIRMATION NO. 7738**

**POWER OF ATTORNEY NOTICE**

23990
DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

*OC000000035069819*

Date Mailed: 03/18/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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www.usp

**MILDRED L. CHAPPELL**
**1185 EL PELAR DR.**
**BOISE ID 83702**

MAILED

NOV 05 2009

OFFICE OF PETITIONS

In re Application of
Mildred L. Chappell
Application No. 11/811,951
Filed: June 13, 2007
For: CHAPPELL SELF ADHESIVE MEDICAL WRAP

ON PETITION

This is in response to the communication, filed May 14, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The petition is dismissed because **the petition is unsigned**. Applicant is encouraged to note the below.

37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

Applicant request that the Office corresponds with Ms. McBride and cc applicant. However, Ms. McBride is not a patent attorney or agent appointed in compliance with § 1.32(b) or who acts in a representative capacity under the provisions of § 1.34. Therefore, a renewed petition **signed by Mildred L. Chappell** should be submitted **within two (2) months** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

A courtesy copy of this decision will be addressed to Mildred L. Chappell at the address of 11101 Lokanotosa Trail, Orlando Florida 32817. **However, the Office will mail all future correspondence solely to the address of record as submitted on April 6, 2009.**

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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**MILDRED L. CHAPPELL**
**KATHERINE P. MCBRIDE**
**11101 LOKANOTOSA TRAIL**
**ORLANDO FLORIDA 32817**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**MILDRED L. CHAPPELL**
**1555 W. FRANKLIN ST.**
**BOISE, IDAHO 83702**

COPY MAILED
JAN 27 2010

In re Application of
Mildred L. Chappell
Application No. 11/811,951
Filed: June 13, 2007
For: CHAPPELL SELF ADHESIVE MEDICAL WRAP

ON PETITION

This is in response to the renewed petition, filed December 22, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On September 30, 2008, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. The application became abandoned on December 31, 2008, for failure to submit a timely response to the nonfinal Office action. On April 13, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the nonfinal Office action. Specifically, petitioner states that the nonfinal Office action was never received.

**DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the

correspondence; where she writes down due dates; how she knows replies are due, etc. In essence, petitioner must explain how she reminds herself of response due dates and show that the due date for the nonfinal Office action of September 30, 2008, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after September 30, 2008, to demonstrate nonreceipt of the nonfinal Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from herself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the nonfinal Office action was not found. Lastly, petitioner must state that she was, in fact, residing at the correspondence address of record for a reasonable time after September 30, 2008; the period when she would have received the nonfinal Office action.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of her method for tracking due dates for filing responses to communications from the USPTO to show she did not receive the nonfinal Office action. Regrettably, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the nonfinal Office action accompanies this decision for petitioner's convenience.

Petitioner states that, "I provided my new mailing address to the Patent Office and was assured that my address was being changed in the system, but it appears that communications to me have continued to be sent to my prior Florida address." However, the change of address submitted on April 6, 2009, was recognized and updated by the USPTO. The decision mailed November 5, 2009 was mailed to the address of record submitted on April 6, 2009. A courtesy copy of the decision mailed on May 14, 2009 was also forwarded to the address noted in the petition because petitioner stated that, "I would appreciate it if your office would comply with my former written request to correspond with Ms. McBride and copy me on the correspondence. Her address and email is given again below: Katherine McBride 11101 Lokanotosa Trail Orlando, FL 32817..." Therefore, since the Office did not recognize Katherine McBride, a courtesy copy of the decision was mailed to the above address to the attention of the petitioner to ensure receipt.

Petitioner now request the address be updated in the system to "1555 W. Franklin St. in Boise, Idaho 83702." However, it is noted that the address in the heading of the petition submitted on December 22, 2009, reference the same address except for an Apt. #2213. Therefore, to ensure that applicant receives the above decision, a courtesy copy of this decision will also be forwarded to the above address indicating the Apt. #2213. However, the Office will mail all future correspondence solely to the address provided in the petition of December 22, 2009, which does not include the Apt. #2213.

**ALTERNATIVE VENUE**

Petitioner may strongly wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

| | |
|---|---|
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By internet: | EFS-Web<br>www.uspto.gov/ebc/efs_help.html<br>(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

**Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated September 30, 2008.**

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/811,951 | 06/13/2007 | Mildred L. Chappell | | 8883 |

7590 09/30/2008

Mildred L. Chappell
2122 Tuckaway Court
Orlando, FL 32826

| EXAMINER |
|---|
| HICKS, VICTORIA J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 4158 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/30/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) |
|---|---|---|
| | 11/811,951 | CHAPPELL, MILDRED L. |
| | Examiner | Art Unit |
| | VICTORIA HICKS | 4158 |

*– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on 13 June 2007.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) 1-4 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-4 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 13 June 2007 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

## DETAILED ACTION

**This action is in response to the application filed on June 13, 2007.**

### *Drawings*

1. The drawings are objected to because the synthetic rubber strands are not labeled in Figure 2 as is indicated in [0003] of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## *Specification*

### Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

(e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

(f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet

published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(l) Sequence Listing, See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Stout (US patent 4,671,267).

[Claim 1] In the abstract Stout teaches that the wrap absorbs moisture, which could be caused by wound seepage.

[Claim 2] In column 7, lines 57-61 Stout teaches that the wrap (10) is provided with VELCRO® strips, or loops and hook systems, for securing the entire wrap (10) in place.

[Claim 4] In the abstract Stout teaches that the moisture absorbing properties of the gel contained in the wrap (10) creates a moisture equilibrium promoting rapid healing. In column 3, lines 39-42 Stout teaches that when the gel contained in the wrap (10) absorbs moisture, a humectant exchange tends to keep skin moisture levels relatively low, and this in turn inhibits bacterial growth, which promotes healing. In column 3, lines 47-49 Stout teaches that the absorbance (or water holding capacity) of the wrap (10) may be enhanced by incorporating therein products referred to as "super absorbants."

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (US patent 4,671,267) in view of Yavnai (US publication 2003/0176825).

[Claim 3] In column 7, lines 57-61 Stout teaches that the wraps (10) is provided with VELCRO® strips, or loop and hook systems, for securing the entire wrap (10) in place. Stout does not teach that the wrap includes synthetic rubber strand along the outer edges. In [0087] Yavnai teaches an analogous device with airtight edge strip (108) that can be formed of synthetic rubber. It would have been obvious for one of ordinary skill in the art at the time of invention to modify the wrap taught by Stout with the rubber edge strip taught by Yavnai because that element is known to make the wrap taught by Stout more secure when applied for therapeutic use.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571)272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./
Examiner, Art Unit 4158
9/23/08

/Fenn C. Mathew/
Primary Examiner

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EDWARD J. LYNCH, PATENT ATTORNEY
FOUR EMBARCADERO CENTER
SUITE 1700
SAN FRANCISCO, CA 94111

COPY MAILED
JAN 19 2010

In re Application of
Fred H. Burbank, et al.
Application No. 11/811,952
Filed: June 12, 2007
Attorney Docket No. SENOP-00503

DECISION ON PETITION

This is a decision on the petition, filed October 20, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of January 6, 2009, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before February 6, 2009.

Petitioner states that a timely reply was mailed via certificate of transmission on January 30, 2009, which included the following papers: response to election of species requirement and an authorization to charge fees under 37 CFR 1.136. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of transmission dated January 30, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 6, 2009 is hereby **withdrawn** and **the application restored to pending status**.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on January 30, 2009.

This application is being referred to Technology Center AU 3736 for appropriate action in the normal course of business on the reply received with petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Yuichi Yamada | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7635826 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/811,971 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **386** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20090825

**DATE** : August 25, 2009

**TO SPE OF** : ART UNIT 2816

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7514991

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - PK 3-910**
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

**SPE:** /Lincoln Donovan/ **Art Unit** 2816

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

MAILED

APR 01 2009

OFFICE OF PETITIONS

Applicant: Kapoustine
Appl. No.: 11/812,087
Filing Date: June 14, 2007
Title: NEW HYDROPHOBIC POLYMER COMPRISING FLUORINE MOIETIES
Attorney Docket No.: P66870US2
Pub. No.: 2008/0015341 A1
Pub. Date: January 17, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 4, 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, as the assignee 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 request for corrected publication, received on September 4, 2008, was not timely filed under 37 CFR 1.221(b).

The instant request does not identify a mistake in the publication made by the Office under

[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).

37 CFR 1.221(b). The assignment information was printed, as provided on the transmittal letter on filing.[2]

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130. An error in assignment information does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on September 4, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

On July 26, 2007 and October 9, 2007, Filing Receipts were mailed by the Office, which listed the assignee's name as "Nextec GmbH". To avoid this type of problem in the future, applicant's representative should review the Filing Receipt, correct error on the transmittal letter and make a request for a Corrected Filing Receipt.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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".

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[2] See 37 CFR 1.215, MPEP 1122 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/812,126 | 06/15/2007 | Matej Oresic | 3501-1133 | 9447 |

| EXAMINER |
|---|
| |

7590 05/07/2008
YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

| ART UNIT | PAPER NUMBER |
|---|---|
| 2857 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/07/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/16/2008 NFARMER 0000162710

CHECK Refund Total: $500.00

Adjustment date: 05/16/2008 NFARMER
06/18/2007 DEMMANU1 00000032 11812126
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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**P.O. BOX 8910**
**RESTON VA 20195**

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JUL 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Norihiko Aze et al | : | |
| Application No. 11/812,150 | : | DECISION GRANTING PETITION |
| Filed: June 15, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 6150-000072US | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on July 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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**OFFICE OF PETITIONS**

In re Application of
Smyth et al
Application No. 11/812,151
Filed: June 15, 2007
Attorney Dkt No. P71988US0

ON PETITION

This is a decision on the petition filed September 10, 2007, requesting in effect, the "Notice to File Omitted Items In A Nonprovisional Application" be withdrawn, and the above-identified application be accorded a filing date of June 15, 2007 including figure 2.

The application was filed on June 15, 2007. However, on July 11, 2007, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 15, 2007 but figure 2 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 2 as described in the specification was filed on June 15, 2007. In support, the petition is accompanied by a copy of applicants' return postcard which lists " Drawings 3 sheets". The petition is further accompanied by a copy of figure 2.

Applicants' postcard receipt is prima facie evidence that at least 3 sheets of drawings, including figure 2 were received on June 15, 2007, but figure 2 is not present in the file

The petition is Granted to the extent indicated above. A petition fee has not been charged and none is due.

Since the original figure 2 cannot be located in the Office, the copy of the drawing supplied on September 10, 2007 will be used for processing and examination.

The application will be returned to the Office of Patent Application Processing for further processing with a **filing date of June 15, 2007**, using the drawings supplied on that date and the copy of figure 2 on September 10, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/812,171 | 06/15/2007 | Yasuhisa Tsujita | 132485 | 9211 |

7590 01/20/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| PAPE, JOSEPH |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3612 | |

| MAIL DATE | DELIVERY MODE |
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| 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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
01/21/2009 NFARMER 0000165845

CHECK Refund Total: $500.00

Adjustment date: 01/21/2009 NFARMER
06/18/2007 DEMMANU1 00000078 11812171
02 FC:1111 -500.00 OP



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/812,209 | 06/15/2007 | Toshiyuki Ogano | 4760-0103PUS1 | 9890 |

| EXAMINER |
|---|
| |

7590 05/08/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/08/2008 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/16/2008 NFARMER
06/18/2007 SZEWDIE1 00000038 022448 11812209
02 FC:1111 500.00 CR



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**FALLS CHURCH VA 22041**

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**OFFICE OF PETITIONS**

In re Application of :
Wei Ling CHANG et al. :
Application No. 11/812,248 : DECISION ON PETITION
Filed: June 15, 2007 :
Attorney Docket No. BHT-3259-90 :

This is a decision on the petitions filed September 04, 2008 under 37 CFR 1.182, requesting expedited consideration of the petition under 37 CFR 1.137(b) to accept unintentionally abandoned application.

The petition under 37 CFR 1.182 for expedited consideration is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice of Requirements mailed February 08, 2008, which set a shortened statutory period for reply of two (2) months. Accordingly, the application became abandoned on April 09, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of February 08, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries related to this decision should be addressed to the Michelle R. Eason at (571) –272-4231.

This application is being referred to the Office of Patent Application Processing.

Thurman Page
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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JUN 0 8 2009

OFFICE OF PETITIONS

**MCKENNA LONG & ALDRIDGE LLP**
**1900 K STREET, NW**
**WASHINGTON DC 20006**

| | | |
|---|---|---|
| In re Application of | : | |
| Se-Hwan SON | : | |
| Application No. 11/812,256 | : | DECISION ON PETITIONS |
| Filed: June 15, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. **29137.051.11-US** | : | AND 37 CFR 1.55(c) |

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed February 20, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment and declaration, respectively.

***As to the benefit claim under 37 CFR 1.78(a)(3)***:

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

***As to the benefit claim under 37 CFR 1.55(c):***

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same

subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this appli-cation to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 1794 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Thurman Page
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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 |
|---|---|---|---|---|---|---|
| 11/812,256 | 06/15/2007 | 1794 | 1000 | 29137.051.11-US | 15 | 1 |

**CONFIRMATION NO. 1018**

**CORRECTED FILING RECEIPT**

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

*OC000000036366380*

Date Mailed: 06/08/2009

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)**

Se-Hwan Son, Daejeon-city, KOREA, REPUBLIC OF;
Jun-Gi Jang, Daejeon-city, KOREA, REPUBLIC OF;
Sang-Young Jeon, Seoul, KOREA, REPUBLIC OF;
Seok-Hee Yoon, Daejeon-city, KOREA, REPUBLIC OF;
Jae-Chol Lee, Daejeon-city, KOREA, REPUBLIC OF;
Kong-Kyeum Kim, Daejeon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** The patent practitioners associated with Customer Number 30827

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/722,812 11/26/2003
which is a CIP of 09/914,731 08/30/2001 PAT 6,720,573
which is a 371 of PCT/KR00/01537 12/27/2000

**Foreign Applications**

REPUBLIC OF KOREA 2002-78809 12/11/2002
REPUBLIC OF KOREA 1999-67746 12/31/1999
REPUBLIC OF KOREA 2000-82085 12/26/2000

**If Required, Foreign Filing License Granted:** 07/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/812,256**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Electroluminescent devices with low work function anode

**Preliminary Class**

428

## 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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Alexandria, VA 22313-1450
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**MCKENNA LONG & ALDRIDGE LLP**
**SONG K. JUNG**
**1900 K STREET, N.W.**
**WASHINGTON DC 20006**

MAILED

JUN 25 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Se-Hwan Son et al | : | |
| Application No. 11/812,257 | : | DECISION ON PETITIONS |
| Filed: June 15, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 29137.051.10 | : | AND 37 CFR 1.55(c) |

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed February 23, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to the prior-filed foreign applications, as set forth in the concurrently filed amendment and Application Data Sheet (ADS), respectively.

***As to the benefit claim under 37 CFR 1.78(a)(3)***:

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

***As to the benefit claim under 37 CFR 1.55(c):***

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed 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 to referred to Technology Center Art Unit 1794 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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 |
|---|---|---|---|---|---|---|
| 11/812,257 | 06/15/2007 | 1794 | 1000 | 29137.051.10 | 15 | 1 |

**CONFIRMATION NO. 1015**

**CORRECTED FILING RECEIPT**

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington, DC 20006

*OC000000036631651*

Date Mailed: 06/25/2009

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)**

Se-Hwan Son, Daejeon-city, KOREA, REPUBLIC OF;
Jun-Gi Jang, Deajeon-city, KOREA, REPUBLIC OF;
Sang-Young Jeon, Seoul, KOREA, REPUBLIC OF;
Seok-Hee Yoon, Daejeon-city, KOREA, REPUBLIC OF;
Jae-Chol Lee, Daejeon-city, KOREA, REPUBLIC OF;
Kong-Kyeum Kim, Daejeon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** The patent practitioners associated with Customer Number 30827

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/722,812 11/26/2003 PAT 7,560,175
which is a CIP of 09/914,731 08/30/2001 PAT 6,720,573
which is a 371 of PCT/KR00/01537 12/27/2000

**Foreign Applications**

REPUBLIC OF KOREA 2002-78809 12/11/2002
REPUBLIC OF KOREA 1999-67746 12/31/1999
REPUBLIC OF KOREA 2000-82085 12/26/2000

**If Required, Foreign Filing License Granted:** 07/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/812,257**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Electroluminescent devices with low work function anode

**Preliminary Class**

428

## 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**THOMAS H. WOOLLEY**
**25109 EBONY LN, #316**
**LOMITA, CA 90717**

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SEP 27 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Thomas H. Woolley | : | |
| Application No. 11/812,278 | : | DECISION ON PETITION |
| Filed: June 18, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 30, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a photocopy of applicant's driver's license. 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 3765 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 26 2009

**OFFICE OF PETITIONS**

CHRISTOPHER J. MCDONALD
HOFFMAN WASSON & GITLER P.C.
SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202

| | | |
|---|---|---|
| In re Application of | : | |
| Ralf-Peter Peters et al | : | |
| Application No. 11/812,290 | : | DECISION ON PETITION |
| Filed: June 18, 2007 | : | TO WITHDRAW |
| Attorney Docket No. A-8981.CIP.RNFMP/cat | : | FROM RECORD |
| | : | |

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 25, 2009.

The request is **APPROVED**.

The request was signed by Stewart L. Gitler on behalf of all the practitioners of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Ralf-Peter Peters at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ralf-Peter Peters
Zum Waschbach 23a
Bergisch-Gladbach, Germany 51467

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Commissioner for Patents
United States Patent and Trademark Office
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**Wenderoth, Lind & Ponack, LLP**
**2033 K Street, N.W.**
**Suite 800**
**Washington, DC 20006-1021**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gunnar Rolla | : | |
| Application No. 11/812,327 | : | DECISION ON PETITION |
| Filed: June 18, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 2007_0997A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 16, 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 attorney of record on behalf of applicant Gunnar Rolla. 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 3738 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

## SPE RESPONSE [redacted]RTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/12/08

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 11812367 Patent No.: 7423360 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**
**You can fax the Directors/SPE response to 571-270-9990**

_____
**Certificates of Correction Branch**
**703-308-9390 ext. _____**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| **X Approved** | **All** changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** ... in response to certificate of correction filed 10/24/08.

/Quyen Leung/ 2834
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yong Myung Shin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7602315 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/812,408 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/19/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/18/2010

**Applicant** : Yong Myung Shin
**Patent Number** : 7602315
**Issue Date** : 10/13/2009
**Application No** : 11/812,408
**Filed** : 06/19/2007

: 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 **268** 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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ARENT FOX LLP
1050 CONNECTICUT AVENUE NW, SUITE 400
WASHINGTON, DC 20036

**COPY MAILED**

AUG 1 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| SATO, et al. | : | |
| Application No. 11/812,420 | : | DECISION GRANTING PETITION |
| Filed: June 19, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 108075-00222 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

*Petitioner is advised that the issue fee paid on June 25, 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 2827 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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**ARENT FOX LLP**
**1050 CONNECTICUT AVENUE NW, SUITE 400**
**WASHINGTON, DC 20036**

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JAN 12 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Hajime **SATO**, et al. | : | |
| Application No. 11/812,420 | : | DECISION GRANTING PETITION |
| Filed: June 19, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 108075-00222 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 7, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on November 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2827 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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OCT 26 2009

**OFFICE OF PETITIONS**

KRAMER & AMADO PC
1725 DUKE ST
SUITE 240
ALEXANDRIA VA 22314

| | | |
|---|---|---|
| In re Application of<br>Bou-Diab, et al.<br>Application No. 11/812,422<br>Filed: June 19, 2007<br>Attorney Docket No. ALC 3297 | :<br>:<br>:<br>:<br>: | DECISION GRANTING<br>PETITION |

This is a decision on petition under 37 CFR 1.47, filed July 13, 2009, which is being treated as a petition under 37 CFR 1.183 to waive § 131's requirement that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on June 19, 2007. With the application, Applicants submitted a 37 CFR 1.63 declaration signed by all of the inventors. A non-final Office action was mailed on June 4, 2009. This office action set a shortened statutory period for reply of three months.

In response, on July 13, 2009, applicants submitted a reply and a declaration under 37 CFR 1.131, made timely by obtaining a three month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the June 4, 2009 rejection was

based. However, the 37 CFR 1.131 declaration was only signed by co-inventor Bou-Diab. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by co-inventor Rabinovitch. Applicants have supplied a copy of Rabinovitch's written refusal to sign.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[1]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are co-inventors Phatak, Zhang, Wan, and Garin.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by both of the joint inventors. However, only Bou-Diab executed the declaration. Applicants have demonstrated that a *bona fide* effort was made to secure the signature of co-inventor Rabinovitch, but that Rabinovitch has refused to sign. Accordingly, it is concluded that applicants have demonstrated

---

[1] 37 CFR 1.131(a) (emphasis added).

[2] MPEP 715.04.

that this is an extraordinary situation requiring waiver of the rules.

**The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.**

The $400 petition fee for the petition under 37 CFR 1.183 has been charged to Deposit Account No. 50-0578, as authorized.

The application file is being forwarded to Group Art Unit 2458 for consideration of the reply and the 37 CFR 1.131 declaration, filed July 13, 2009.

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. |
|---|---|---|---|---|
| 11/812,441 | 06/19/2007 | Myoung-Hoon Park | 52155 | 1512 |

7590 10/07/2008
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

| EXAMINER |
|---|
| BOST, DWAYNE D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/07/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

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Refund Ref:
10/07/2008  NFARMER   0000164683
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     CHECK Refund Total:      $1250.00
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Adjustment date: 10/07/2008  NFARMER
06/20/2007 DEMMANU1 00000066 11812441
02 FC:1111                        -500.00 OP
04 FC:1201                        -200.00 OP
05 FC:1202                        -550.00 OP
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FORM PET651G (Rev. 08/07)

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**KILPATRICK STOCKTON LLP**
**1001 WEST FOURTH STREET**
**WINSTON-SALEM NC 27101**

**COPY MAILED**

APR 23 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Elizabeth Chitren et al. | : | |
| Application No. 11/812,482 | : | DECISION ON PETITION |
| Filed: June 19, 2007 | : | TO WITHDRAW |
| Attorney Docket No. GST450-DIV1-CON1-CIP1 | : | FROM RECORD |
| | : | |

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 16, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John H. Harrington on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Elizabeth Chitren**
**120 East Church Street, Apt. 1**
**Fairport, NY 14450**

cc: **Brian Kinnear**
**Holland & Hart, LLP**
**555-17th Street, Suite 2700**
**Denver, CO 80202**

UNITED STATES PATENT AND TRADEMARK OFFICE

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CST

August 20, 2009

| | | |
|---|---|---|
| In re application of<br>Tsuyoshi Miyamoto<br>Serial No. 11/812,503<br>Filed: June 19, 2007<br>For: ENDLESS BELT AND PRODUCTION METHOD THEREOF, INTERMEDIATE TRANSFER BELT, 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, together with the preliminary amendment filed June 22, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
      ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
      Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
   c. A statement that the English translation is accurate;

(6) Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hiroki Kimura | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656208 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/812,520 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/19/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **23** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OCT 09 2009

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**ROBIC**
**Centre CDP Capital**
**1001, Victoria Square-BLOC E-8th Floor**
**Montreal, QC H2Z 2B7**
**Canada**

| | | |
|---|---|---|
| In re Application of | : | |
| David Flajnik, et al. | : | |
| Application No. 11/812,545 | : | DECISION ON PETITION |
| Filed: June 20, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 013642-0080 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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. 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 Nathalie Jodoin 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: **SALFLEX POLYMEYERS, LTD.**
**1925 Wilson Avenue**
**Weston, Ontario M9M 1A9**
**Canada**

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/812,545 | 06/20/2007 | David Flajnik | 013642-0080 |

**CONFIRMATION NO. 2906**

**POWER OF ATTORNEY NOTICE**

20559
ROBIC
CENTRE CDP CAPITAL
1001, VICTORIA SQUARE - BLOC E - 8TH FLOOR
MONTREAL, QC H2Z 2B7
CANADA

*OC000000038209857*

Date Mailed: 10/09/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2009.

- 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 09 2010

OFFICE OF PETITIONS

LITMAN LAW OFFICES, LTD.
POST OFFICE BOX 41200
SOUTH STATION
ARLINGTON, VA 22204

| | | |
|---|---|---|
| In re Application of Morales | : | |
| Application No. 11/812,592 | : | Decision on Petition |
| Filing Date: June 20, 2007 | : | |
| Attorney Docket No. 28573.00 | : | |

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 final Office action mailed May 28, 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 August 29, 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 in the form of a request for continued examination ("RCE") and amendment. Petitioner has submitted the required petition fee of $810. 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 3731 will be informed of the instant decision and the application, including the RCE and 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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**BLANK ROME LLP**
**600 NEW HAMPSHIRE AVENUE, NW**
**WASHINGTON, DC 20037**

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of

Keith C. ARMSTRONG
Application No. 11/812,666
Filed: June 20, 2007
Attorney Docket No. 127046-00102

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 June 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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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. |
|---|---|---|---|---|
| 11/812,716 | 06/21/2007 | Shuhei Yada | 1417-581 | 3891 |

7590 03/30/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|
| OH, TAYLOR V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1625 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/30/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/27/2009 BPOWELL
06/22/2007 DEMMANU1 00000023 11812716
02 FC:1111 -500.00 OP

Adjustment date: 03/27/2009 BPOWELL
06/22/2007 DEMMANU1 00000023 11812716
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Refund Ref: 03/27/2009 0030068223

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Credit Card Refund Total: $500.00

AE Exp..: XXXXXXXXXXX2021

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas Moriarty | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7597485 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/812,719 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/21/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chichun Wu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613526 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/812,771 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 06/21/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/812,800 | 06/21/2007 | Yasuichi Hashimoto | 008312-0361767 | 4576 |

7590 07/10/2009
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

| EXAMINER |
|---|
| WELLINGTON, ANDREA L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/10/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/13/2009 NFARMER
06/22/2007 CNGUYEN2 00000058 033975 11812800
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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**Litman Law Offices, LTD**
**P.O. Box 15035**
**Crystal City Station**
**Arlington, VA 22215**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Alban J. Candiff | : | |
| Application No. 11/812,803 | : | DECISION ON PETITION |
| Filed: June 21, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 28091.01 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 17, 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 the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3723 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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**Robinson Intellectual Property Law Office, P.C.**
**3975 Fair Ridge Drive**
**Suite 20 North**
**Fairfax VA 22033**

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JUL 21 2010
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| | | |
|---|---|---|
| In re Application of | : | |
| Yoshitaka Dozen, et al. | : | |
| Application No. 11/812,813 | : | DECISION GRANTING PETITION |
| Filed: June 21, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 0756-8061 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 20, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on July 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 Terri Johnson at (571) 272-2991.

This application 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.

Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

**MAILED**

SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Yasui
Application No. 11/812,835
Filed: June 22, 2007
Attorney Docket No.:
04329.4204-00000
Title: INFORMATION PROCESSING
APPARATUS AND CONTROL METHOD
THEREOF

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.181(A)

This is a decision on the petition filed August 21, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

## BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 24, 2008, which set a shortened statutory period for reply of three 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 March 25, 2009. A notice of abandonment was mailed on August 19, 2009.

## RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP 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.

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).

(Emphasis added).

## ANALYSIS

Petitioner has stated that the Office action was not received at the correspondence address of record,[1] and has provided a copy of the mail log for the relevant time period,[2] a copy of the master docket,[3] and a copy of the individual docket report that is associated with this application.[4]

Moreover, Petitioner has asserted that the "file" was searched,[5] however it is not clear if both the file jacket and its contents

1 Petition, page 2.
2 Exhibit A.
3 Exhibit B.
4 Exhibit C.
5 Petition, page 2.

were searched. The Office will construe this statement to mean that both the file jacket and its contents were reviewed, and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

Petitioner has not provided a statement that sufficiently describes the system used for recording an Office communication received at the correspondence address of record with the USPTO, so as to establish that the docketing system is sufficiently reliable. Petitioner has explained that all incoming correspondence from the Office is entered into a computerized mail log,[6] and is then docketed into a computerized docket.[7] Reference has been made to "daily docket reminders" which are "taken from the 'Master Docket,"[8] and it appears that these daily docket-reminders are generated by the computer-based docketing software program.[9]

On renewed petition, Petitioner should address the following inquiry: **are these daily docket reminders distributed to the responsible attorneys on a regular (presumably daily) basis?**

## CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, 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, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(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,[10] hand-delivery,[11] or facsimile.[12] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[13]

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6 Id.
7 Id. at 3.
8 Id.
9 Id.
10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
12 (571) 273-8300- please note this is a central facsimile number.
13 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

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 of Petitioner's further action(s).

/Paul Shanoski/
Paul Shanoski
Senior 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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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of
Yasui
Application No. 11/812,835
Filed: June 22, 2007
Attorney Docket No.:
04329.4204-00000
Title: INFORMATION PROCESSING
APPARATUS AND CONTROL METHOD
THEREOF

DECISION ON RENEWED PETITION
PURSUANT TO
37 C.F.R. § 1.181(A)

This is a decision on the renewed petition filed November 3, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

## BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 24, 2008, which set a shortened statutory period for reply of three 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 March 25, 2009. A notice of abandonment was mailed on August 19, 2009.

## PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 21, 2009, where Petitioner stated that the Office action was not received at the correspondence address of record,[1] and provided a copy of the mail log for the relevant time period,[2] a copy of the master docket,[3] and a copy of the individual docket report that is associated with this application.[4] Moreover, Petitioner asserted that the "file" was searched.[5] Still further, Petitioner explained that all incoming correspondence from the Office is entered into a computerized mail log,[6] and is then docketed into a computerized docket.[7] Reference was made to "daily docket reminders" which are "taken from the 'Master Docket,"[8] and it appears that these daily docket-reminders are generated by the computer-based docketing software program.[9]

The original petition was dismissed via the mailing of a decision on September 23, 2009, which indicated that the assertion of non-receipt had not been adequately supported, as the statement which describes the system used for recording an Office communication received at the correspondence address of record with the USPTO was not sufficient to establish that the docketing system is sufficiently reliable.

With this renewed petition, Petitioner has indicated that the daily docket reminders are "sent to each attorney within the firm for matters which they are responsible, on a daily basis."[10]

## CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of December 24, 2008 was not received.

Accordingly, this second renewed petition pursuant to 37 C.F.R.

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1 Original Petition, page 2.
2 Exhibit A, included with original petition.
3 Exhibit B, included with original petition.
4 Exhibit C, included with original petition.
5 Original petition, page 2.
6 Id.
7 Id. at 3.
8 Id.
9 Id.
10 Renewed petition, page 3.

§ 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

PThe Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of December 24, 2008, and will set a new period for response.

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 the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

11 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 of Petitioner's further action(s).

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

**MAJIOD AKHAVAN-MALAYERI**
**15209 WINESAP ROAD**
**POTOMAC MD 20878**

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MAR 2 4 2008

**OFFICE OF PETITIONS**

In re Application of

**AKHAVAN-MALAYERI,** Majid
Application No. 11/812,908
Filed: June 22, 2007
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, client attorney relationship terminated, 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
Petitions Examiner
Office of Petitions

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MAY 2 0 2008

**OFFICE OF PETITIONS**

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

| | | |
|---|---|---|
| In re Application of Lee et al. | : | |
| Application No. 11/812,910 | : | Decision on Petition **and** Notice of |
| Filing Date: June 22, 2007 | : | Incomplete Reply |
| Attorney Docket No. 01261.0033 | : | |

This is a decision in response to the petition filed December 21, 2007, requesting, in effect, withdrawal of the Notice of Omitted Items mailed October 25, 2007.

The petition is **granted**.

As discussed in the instant decision, petitioner must submit a substitute specification as well as a statement that the substitute specification contains no new matter. The substitute specification and statement must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **Failure to timely file the substitute specification and statement will result in abandonment of the application.**

Facts:

The application was filed June 22, 2007. Due to a typographical error, paragraph 18 of the specification referred to a Figure 6(e) even though petitioner did not intend to file a Figure 6e and a Figure 6e does not exist.

On July 23, 2007, the Office mailed a Notice to File Corrected Application Papers. The Notice required the submission of replacement drawings for some of the drawing sheets and indicated Figure 6e described in the specification appeared to be missing.

The July 23, 2007 Notice stated in part, with emphasis added,

> If applicant wants to accept the application as deposited without adding ... the omitted item[,] ... applicant is required to submit one or more of the following items[:] ...
>
> 2. For a missing figure of the drawings,
>
> [a.] [R]eplacement drawings sheets ... to renumber the drawing figures consecutively (if necessary),

[b.] [A] substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and corrects the references in the specification to the drawing figures to correspond with any relabeled drawing figures, and

[c.] [A] statement that the substitute specification contains no new matter.

The July 23, 2007 Notice set an extendable time period for reply of two (2) months from the mail date of the Notice.

Petitioner filed a response to the July 23, 2007 Notice on September 21, 2007. Petitioner filed an amendment with the response. The amendment deleted the reference to Figure 6e in paragraph 18 of the specification. Petitioner did not file a substitute specification.

Although an improper reply was filed in response to the July 23, 2007 Notice, the application did not become abandoned. Specifically, on October 25, 2007, the Office withdrew the July 23, 2007 Notice.

On October 25, 2007, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application." The Notice indicated Figure 6e described in the specification did not appear to be part of the drawings filed.

The October 25, 2007 Notice stated in part, with emphasis added,

> If applicant wants to accept the application as deposited without adding ... the omitted item[,] ... applicant is required to submit one or more of the following items[:] ...
>
> 2. For a missing figure of the drawings,
>
> [a.] [R]eplacement drawings sheets ... to renumber the drawing figures consecutively (if necessary),
>
> [b.] [A] substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and corrects the references in the specification to the drawing figures to correspond with any relabeled drawing figures, and
>
> [c.] [A] statement that the substitute specification contains no new matter.

The October 25, 2007 Notice set an extendable time period for reply of two (2) months from the mail date of the Notice.

## Discussion:

The instant petition asserts the October 25, 2007 Notice is incorrect because Figure 6e is not described in the specification. The petition is correct in so far as the specification, *as amended*, did not reference Figure 6e.

If the October 25, 2007 Notice had informed petitioner referenced the amendment deleting Figure 6e filed September 21, 2007 was improper and that a substitute specification was still necessary, then the Office would not withdraw the Notice. However, the Notice does not even refer to the September 21, 2007 amendment and can be easily interpreted as being the result of a failure by the Office to recognize the fact the September 21, 2007 amendment deleted any reference to Figure 6e.

Although close, upon a review of the entire record, the Office will withdraw the Notice issued October 25, 2007.

Although the October 25, 2007 Notice has been withdrawn, the fact remains that petitioner has not yet filed a substitute specification or a statement indicating the substitute specification contains no new matter. The instant paper should be treated in part as a Notice requiring the submission of:

(1) A substitute specification, excluding claims, that amends the specification to cancel any references to Figure 6e, and
(2) A statement that the substitute specification contains no new matter.

The substitute specification and statement must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to timely file the substitute specification and statement will result in abandonment of the application.

The Office of Patent Application Processing will be informed of the instant decision and will further process the application upon receiving the required substitute specification and a statement that the substitute specification contains no new matter.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 11/812,936 | 06/22/2007 | Yoshiko Koizumi | 5248-053-US01 | 6200 |

7590 05/27/2010
HANIFY & KING PROFESSIONAL CORPORATION
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON, DC 20007

| EXAMINER |
|---|
| BHATTACHARYA, SAM |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/27/2010 | 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

Adjustment date: 05/28/2010 NFARMER
06/22/2007 SZEWDIE1 00000059 504947 11812936
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR
05 FC:1202 50.00 CR



FORM PET651G (Rev. 08/07)

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FEB 16 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Daniel Chin :
Application No. 11/812,963 : DECISION ON PETITION
Filed: June 22, 2007 : TO WITHDRAW
Attorney Docket No. **027024-000310US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 18, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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, 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).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**MORRISON & FOERSTER LLP**
**1650 TYSONS BOULEVARD**
**SUITE 400**
**MCLEAN VA 22102**

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SEP 02 2008

In re Application of

**WILLIAMS,** Marlon
Application No. 11/812,964
Filed: June 22, 2007
Attorney Docket No. **616272000100**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 01, 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 Deborah Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated with the Customer Number 25227 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MARLON WILLIAMS**
**3237 PORT ROYAL DRIVE SOUTH #D**
**FORT LAUDERDALE FL 33308**

cc: **EDWARD GRAY**
**FITCH, EVEN, TABIN & FLANNERY**
**120 SOUTH LASALLE STREET, SUITE 1600**
**CHICAGO IL 60603**

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G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

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JUL 01 2009

OFFICE OF PETITIONS

In re Application of :
Chieh-Sheng Hsu et al. :
Application No. 11/812,973 :
Filed June 22, 2007 :
Attorney Docket No. P1145 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to pay in a timely manner the issue and publication fees on or before April 28, 2009 as required in the Notice of Allowance and Fee(s) Due mailed January 28, 2009 which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 29, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1). The petition was not signed by all inventors.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Application No. 11/812,973

Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or the undersigned at 571-272-7099.

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

G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

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SEP 01 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chieh-Sheng Hsu et al. | : | |
| Application No. 11/812,973 | : | DECISION ON PETITION |
| Filed: June 22, 2007 | : | |
| Attorney Docket No. P1145 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2009. Accordingly, the date of abandonment of this application is April 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to the office of Data Management for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : February 4, 2010

Patent No. :7609211
Inventor(s) :Chieh_Sheng Hsu et al.
Issued :October 27, 2009
Title :HIGH-DIRECTIVITY MICROSTRIP ANTENNA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

*Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.*

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

EBC Filing: E-mail to efs@uspto.gov
Electronic Business Center 1-866-217-9197
571-272-4100

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 1544

G. Link CO., Ltd
3550 Bell Road
Minooka, Il 60447

/arg

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

| | | |
|---|---|---|
| In re Application of | : | |
| Ping-Hung Hsieh | : | |
| Application No. 11/812,974 | : | DECISION ON PETITION |
| Filed: June 22, 2007 | : | |
| Attorney Docket No. BHT/3183-142 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 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 mailed February 12, 2008. 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 April 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $310 for the filing fee, $510 for the search fee, $210 for the examination fee, $130 for the surcharge, and $50 for the bounced check fee (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

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5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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SEP 28 2007

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of<br>Jackson Kuo<br>Application No. 11/812,976<br>Filed: June 22, 2007<br>Attorney Docket No.: BHT-3214-249<br>Title: PORTABLE PIECE GAME SET | DECISION ON PETITION UNDER 37 C.F.R. § 1.182 |

This is a decision on the petition filed July 27, 2007, requesting that the above-identified application, including Figure 12, be accorded a filing date of June 22, 2007 as part of the original disclosure.

The application was deposited on June 22, 2007. However, on July 18, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants, *inter alia*, that Figure 12 appeared to have been omitted on filing. The notice set a two-month period of reply.

In response, on July 27, 2007, applicants filed the present petition. The petition is further accompanied by a copy of Figure 12, along with a copy of applicants' postcard receipt acknowledging receipt of "11 sheets of Drawings; Figs. 1-12" in the United States Patent and Trademark Office (Office) on June 22, 2007. Applicants request that Figure 12 be accorded a filing date of June 22, 2007.

Upon review of the electronic file, 10 sheets of drawings have been located, containing Figures 1 - 11. Figure 12 has not been

located among the application papers. However, the evidence is convincing that the application papers deposited on June 22, 2007 included a drawing sheet containing Figure 12, and this sheet was subsequently misplaced in the Office.

Therefore, the application, including Figure 12, was complete on filing and entitled to a filing date of June 22, 2007 as part of the original disclosure.

Accordingly, the petition under 37 C.F.R. § 1.182 is **GRANTED**.

The portion of the notice mailed July 18, 2007 that referred to Figure 12 was sent in error, and that portion is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account in due course.

OIPE will be advised to process the application with a filing date of June 22, 2007, using the original application papers filed on that date, as well as Figure 12 submitted on July 27, 2007, and for noting in Office records that the sheet containing Figure 12 was present on filing.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225. All other inquiries concerning the status of the application should be directed to OIPE.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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0 7 APR 2008

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

| | | |
|---|---|---|
| In re Application of | : | |
| PELLEGRINI, et al. | : | |
| Application No.: 11/813,027 | : | |
| PCT No.: PCT/US05/47159 | : | REQUEST FOR STATUS |
| Int. Filing Date: 27 December 2005 | : | |
| Priority Date: 28 December 2004 | : | UNDER 37 CFR 1.42 |
| Attorney Docket No.: 1368-19 PCT/US | : | |
| For: CELL BASED METHODS AND SYSTEMS FOR THE IDENTIFICATION OF RNA REGULATORY SEQUENCES AND COMPOUNDS MODULATE THEIR FUNCTION | : | |

This decision is in response to applicant's declaration filed 05 October 2007 in the United States Patent and Trademark Office (USPTO). The declaration is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

## BACKGROUND

On 27 December 2005, applicant filed international application PCT/US05/47159 which claimed a priority date of 28 December 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 June 2007.

On 28 June 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee and an Application Data Sheet.

On 05 October 2007, applicant filed the declaration discussed herein executed by co-inventor Christopher R. Trotta and Judith Albanese as the executor of the estate of deceased co-inventor Matthew C. Pelligrini.

## DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or

declaration, and apply for and obtain a patent."

The filed declaration is executed by Judith Albanese as the executor of the estate of deceased co-inventor Matthew C. Pelligrini. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the signature box of the declaration executed by Ms. Albanese sets forth the residence, citizenship and post office address for only one individual; presumably the deceased inventor, Matthew C. Pelligrini. In order to comply with 37 CFR 1.497(b), the declaration must list this information for the legal representative, and, at a minimum, identify the citizenship of the inventors.

## CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

2 8 AUG 2008

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

| | | |
|---|---|---|
| In re Application of | : | |
| PELLEGRINI, et al. | : | |
| Application No.: 11/813,027 | : | |
| PCT No.: PCT/US05/47159 | : | REQUEST FOR STATUS |
| Int. Filing Date: 27 December 2005 | : | |
| Priority Date: 28 December 2004 | : | UNDER 37 CFR 1.42 |
| Attorney Docket No.: 1368-19 PCT/US | : | |
| For: CELL BASED METHODS AND | : | |
| SYSTEMS FOR THE IDENTIFICATION | : | |
| OF RNA REGULATORY SEQUENCES | : | |
| AND COMPOUNDS MODULATE THEIR | : | |
| FUNCTION | : | |

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.42" filed 07 August 2008 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 07 April 2008, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 07 August 2008, applicant filed the present renewed petition accompanied by a petition for a two month extension of time. The response is considered timely filed.

## DISCUSSION

As detailed in the decision mailed 07 April 2008, 37 CFR 1.42, states:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

With the filing of the accompanying declaration applicant has satisfied the concerns of the decision of 07 April 2008 in that the declaration is in compliance with 37 CFR 1.497(a)-(b). It is therefore proper to grant applicant's renewed petition at this time.

## CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 27 December 2005 and a date of **07 August 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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MAILED

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OFFICE OF PETITIONS

Applicant: Okaniwa et al
Appl. No.: 11/813,046
International Filing Date: December 28, 2005
Title: METHOD FOR PRODUCING ALUMINUM COMPOSITE MATERIAL
Attorney Docket No.: 310455US3X PCT
Pub. No.: US 2008/0131719 A1
Pub. Date: June 5, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 5, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors of "RC" rather than "$B_4C$" at page 4 of the specification.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error noted by requestor is not a material Office error under 37 CFR 1.221, since the sentence immediately following states that "$B_4C$" is a preferred choice of material. The public's ability to appreciate the technical disclosure of the application is therefore unaffected.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system

[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).

requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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| In re Application of<br>ANDERSON, Duwayne R., et al.<br>Application No.: 11/813,090<br>PCT No.: PCT/US2005/047605<br>Int. Filing Date: 30 December 2005<br>Priority Date: 30 December 2004<br>Docket No.: PHO-2.013.PCT.US<br>For: METHODS AND SYSTEMS RELATING TO LIGHT SOURCES FOR USE IN INDUSTRIAL PROCESSES | DECISION<br><br>ON PETITION UNDER<br><br>37 CFR 1.47(a) |

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 09 September 2008.

## BACKGROUND

On 10 June 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 09 September 2008, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and the fee for a one month extension of time.

## DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1) and (3) have been met. The$200 petition fee has been paid. Applicant states the last known address of Mr. Mark D. Owen as 16075 N.W. Telshire Drive, Beaverton, Oregon 97006.

As to item (4), it is not clear that the declaration complies with 37 CFR 1.497(a)-(b). The bottom of the first page of declaration has a box for indicating that additional inventors or legal representatives are listed on additional sheets. However, that section was not completed, but the declaration presented to the Office does include a second sheet listing the third inventor. Please confirm that the inventors executed a complete copy of the declaration listing all of the inventors. If the second sheets was omitted from the copy presented to the inventors, a new oath or declaration listing the correct inventive entity is required.

Item (2) has not been satisfied. Applicants must establish that the inventor has refused to sign the declaration after presentation with a complete copy of the application papers. Applicants have not furnished copies of the attachments sent to the nonsigning inventor. Documentary evidence of presentation should be furnished.

## CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed via EFS-Web or if mailed, 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.

/Erin P. Thomson/

Erin P. Thomson
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1 6 MAR 2009

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PORTLAND, OR 97204

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| In re Application of | : | |
| ANDERSON et al. | : | |
| Application No.: 11/813,090 | : | DECISION |
| PCT No.: PCT/US2005/047605 | : | |
| Int. Filing Date: 30 December 2005 | : | |
| Priority Date: 30 December 2004 | : | |
| Attorney Docket No.: PHO-2.013.PCT.US | : | |
| For: METHODS AND SYSTEMS RELATING TO | : | |
| LIGHT SOURCES FOR USE IN INDUSTRIAL | : | |
| PROCESSES | : | |

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 30 December 2008 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

## BACKGROUND

On 30 December 2005, applicants filed international application PCT/US2005/047605, which designated the United States and claimed a priority date of 30 December 2004. A copy of the international application was communicated from the International Bureau to the USPTO on 06 July 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 July 2007 (30 June 2007 being a Saturday).

On 28 June 2007, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 09 September 2008, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a one-month extension of time and a declaration of inventors.

On 03 November 2008, a decision was issued dismissing without prejudice applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that it had not been established that the non-signing inventor was presented with a complete copy of the application papers and that it was not clear that the inventors executed a complete copy of the declaration listing all of the inventors.

On 30 December 2008, applicants filed the instant renewed petition under 37 CFR 1.47(a).

## DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(i); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision issued 03 November 2008, items (1) and (3) have been met.

Item (2) has now been met as well. It has been established that the non-signing inventor was presented with a complete copy of the application papers including the specification and that he refuses to sign.

Item (4) has now also been met. The renewed petition includes a statement that the inventors were presented with a complete copy of the declaration listing all of the inventors.

## CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office

of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **09 September 2008**.

/Daniel Stemmer/

Daniel Stemmer
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PCT Legal Affairs
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16 MAR 2009

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Mr. Mark D. Owen
16075 N.W. Telshire Drive
Beaverton, Oregon 97006

In re Application of
ANDERSON et al.
Application No.: 11/813,090
PCT No.: PCT/US2005/047605
Int. Filing Date: 30 December 2005
Priority Date: 30 December 2004
Attorney Docket No.: PHO-2.013.PCT.US
For: METHODS AND SYSTEMS RELATING TO LIGHT SOURCES FOR USE IN INDUSTRIAL PROCESSES

Dear Mr. Owen:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

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CHICAGO IL 60606-6357

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| In re Application of: | : | |
| HOLMES, Andrew, et al. | : | |
| U.S. Application No.: 11/813,094 | : | DECISION REGARDING |
| PCT No.: PCT/GB2005/005061 | : | SUBMISSION UNDER |
| Int. Filing Date: 23 December 2005 | : | 37 CFR 1.42 |
| Priority Date: 29 December 2004 | : | |
| Attorney's Docket No.: 29610/CDT592 | : | |
| For: CONDUCTIVE POLYMER | : | |
| COMPOSITIONS IN OPTO- | : | |
| ELECTRICAL DEVICES | : | |

This communication is issued in response to applicants' submission on 21 April 2008 and 12 May 2008 of declarations executed on behalf of deceased inventor Carl TOWNS by the deceased inventor's legal representative. These submissions are considered herein under 37 CFR 1.42 and 37 CFR 1.497.

## BACKGROUND

On 23 December 2005, applicants filed international application PCT/GB2005/005061. The international application claimed a priority date of 29 December 2004, and it designated the United States. On 06 July 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 29 June 2007.

The inventors of record in the international application are Carl TOWNS, Andrew HOLMES, and Mary MCKIERNAN.[1]

On 28 June 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 12 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) stating that an oath or

[1] It is noted that Carl TOWNS was added as an additional applicant/inventor after the international filing date and his name does not appear on the publication of the international application.

declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 21 April 2008, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and a declaration document executed by the two surviving inventors and on behalf of the deceased inventor, Carl TOWNS, by his legal representative. It is noted that the declaration document filed on 21 April 2008 appears to be a compilation of multiple documents, and it includes handwritten alterations that were not initialed or dated. The declaration document is therefore defective in form.

On 12 May 2008, prior to the expiration of the deadline for responding to the Notification Of Missing Requirements, applicants' supplemented the previous response by submitting revised declarations again executed by the two surviving inventors and by the legal representative of the deceased inventor. The revised declarations filed 12 May 2008 do not contain any handwritten alterations and are complete documents (i.e., not compiled). The declarations are considered herein under 37 CFR 1.42.

## DISCUSSION

37 CFR 1.42 states in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative (or all the heirs) must be identified on the declaration, as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497.

Here, the declaration filed 12 May 2008 indicates that inventor Carl DOWNS is deceased, and it identifies the person signing on his behalf as his legal representative (although the name of the legal representative is not set forth in the declaration); however, it is not clear whether the citizenship, residence, and mailing address information provided in the declaration is

that of the deceased inventor or the legal representative, as required by 37 CFR 1.497(b)(2). Moreover, regardless of whose citizenship information has been provided, the signature box does not expressly indicate the citizenship of both the legal representative and the deceased inventor, as required.

Applicants must provide a revised declaration executed by the legal representative of the deceased inventor that clearly sets forth all information required under 37 CFR 1.497, including the citizenship, residence, and mailing address of the legal representative, the citizenship of the deceased inventor, and the names and citizenship of the surviving inventors. The declaration should also clearly indicate the name of the legal representative.

## CONCLUSION

The request for status under 37 CFR 1.42 is **REJECTED** without prejudice on the present record.

Applicants have **TWO (2) MONTHS** from the mail date of this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment.

Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration executed by the legal representative that includes all the information required by 37 CFR 1.497, including the citizenship, residence, and mailing address of the legal representative, the citizenship of the deceased inventor, and the names and citizenship of the surviving inventors. The declaration should also clearly indicate the name of the legal representative.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, 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.

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Chicago, IL 60606

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| In re Application of | : | |
| HEIDENHAIN *et al* | : | |
| U.S. Application No.: 11/813,095 | : | |
| PCT No.: PCT/GB2005/005058 | : | |
| Int. Filing Date: 23 December 2005 | : | **DECISION** |
| Priority Date: 29 December 2004 | : | |
| Attorney Docket No.: 29610/CDT584 | : | |
| For: RIGID AMINES | : | |

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 14 March 2008.

## BACKGROUND

On 28 June 2007, applicants filed papers to enter the national stage of PCT/GB2005/005058.

On 14 March 2008, applicants filed the subject petition which was accompanied by, *inter alia*, the $130.00 surcharge fee; a $130.00 petition fee; a declaration signed by three of the four named inventors; a declaration of facts by Andrew M. Lawrence; and attachments A - G.

## DISCUSSION

Applicants claim that joint inventor, Mark Leadbeater refuses to cooperate in the above-identified application and have filed the subject petition. A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the petition fee is $200.00. The $70.00 difference has been charged to Deposit Account No. 13-2855 as authorized. The last known address of Mr. Leadbeater is provided in the petition.

Items (1) and (3) of 37 CFR 1.47(a) are complete.

Regarding item (2), applicants' submitted a declaration by Mr. Lawrence describing the facts that led to petitioners' conclusion that the conduct of the nonsigning inventor constitutes a refusal to cooperate. A review of the declaration of facts indicates that petitioners submitted copies of the subject application to Mr. Leadbeater at his last known address on 17 October 2007. These documents were signed for by "Leadbitter" (Attachment "E") on 22 October 2007. Petitioners followed up with another letter containing the subject application on 13 December 2007. These documents were signed for by a "F. Reathy" (Attachment "G") on 19 December 2007.

Petitioners have shown that a complete copy of the subject application was mailed to the last known address of the nonsigning inventor. The 17 October 2007 documents were received by a person named "Leadbitter." However, there is no direct evidence that the 13 December 2007 documents were received by Mr. Leadbeater. Moreover, the 17 October 2007 letter does not provide a time limit for Mr. Leadbeater to respond and petitioners have also not provided any reason why Mr. Leadbeater is refusing to cooperate.

Accordingly, there is insufficient evidence to show that the conduct of Mr. Leadbeater constitutes a refusal to cooperate. Petitioners must attempt to contact the nonsigning inventor via telephone or email (if possible) to determine whether he intends to cooperate in the subject application. If either of these are not possible, a follow-up letter received by the nonsigning inventor is required. A refusal to receive the documents would be sufficient. Such efforts are not extraordinary and are required here. If petitioners are unable to locate and contact the nonsigning inventor, the procedures noted when an inventor cannot be reached should be followed. *See* § 409.03(d)(I) MPEP.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by three of the four named inventors on behalf of themselves and the nonsigning joint inventor. This declaration would be in compliance with 37 CFR 1.497(a) and (b) and meet the requirements of § 409.03(a)(A) of the MPEP. However, the declaration contains noninitialed alterations on the residence for joint inventors, Sophie Heidenhain and Daniel Hicks.

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. *See* § 605.04(a) MPEP. As such, the declaration is not accepted.

Item (4) of 37 CFR 1.47(a) is not yet satisfied.

## CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
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| In re Application of | : | |
| HEIDENHAIN *et al* | : | |
| U.S. Application No.: 11/813,095 | : | |
| PCT No.: PCT/GB2005/005058 | : | |
| Int. Filing Date: 23 December 2005 | : | **DECISION** |
| Priority Date: 29 December 2004 | : | |
| Attorney Docket No.: 29610/CDT584 | : | |
| For: RIGID AMINES | : | |

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 09 March 2009.

## BACKGROUND

On 12 November 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 09 March 2009, applicants filed the subject response which was accompanied by, *inter alia*, declarations executed by co-inventors, Sophie Heidenhain and Daniel Hicks, a "Supplemental Declaration of Facts Under 37 C.F.R. § 1.47(a)" by Andrew M. Lawrence and authorization to charge any required fees to Deposit Account No. 13-2855.

## DISCUSSION

The prior decision mailed 12 November 2008 gave applicants two months to respond with extensions of time available. Applicants responded on 09 March 2009. Accordingly, a two-month extension of time fee has been charged to Deposit Account No. 13-2855 as authorized.

In the renewed petition, applicants submitted a statement of facts by Mr. Lawrence who contacted the nonsigning inventor via telephone and verified that Mr. Leadbeater had received a copy of the application papers as filed. Mr. Lawrence states that "Dr. Leadbeater acknowledged delivery of the letters and expressly indicated that he refused to execute a declaration for the above-referenced patent application."

This evidence constitutes a refusal to cooperate as contemplated by section

409.03(d)(II) of the MPEP. This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

With regards to item (4), applicants have provided new declarations for co-inventors, Sophie Heidenhain and Daniel Hicks. The change in the mailing address of the declaration for Mr. Hicks was initialed. Both declarations are in compliance with 37 CFR 1.497(a) and (b) and meet the requirements of § 409.03(a)(A) of the MPEP. Item (4) of 37 CFR 1.47(a) is also satisfied.

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

## CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 December 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 09 March 2009.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

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05 MAY 2009

Mark Leadbeater
Rookery Farm
Depden
IP29 4BU
United Kingdom

In re Application of
HEIDENHAIN *et al*
U.S. Application No.: 11/813,095
PCT No.: PCT/GB2005/005058
Int. Filing Date: 23 December 2005
Priority Date: 29 December 2004
Attorney Docket No.: 29610/CDT584
For: RIGID AMINES

Mr. Leadbeater:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

U.S. Counsel: MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

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VENABLE, CAMPILLO, LOGAN & MEANEY, P.C.
1938 E. OSBORN RD
PHOENIX AZ 85016-7234

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| In re Application of | : | |
| Sozeri | : | |
| Application No.: 11/813,096 | : | |
| PCT No.: PCT/IB2005/054352 | : | |
| Int. Filing Date: 21 December 2005 | : | DECISION |
| Priority Date: 29 December 2004 | : | |
| Attorney Docket No.: PHDL1167-001 | : | |
| For: Software Updating By Means Of A Remote Control | : | |

The petition to revive under 37 CFR 1.137(b) filed on 21 March 2008 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Inspection of the declaration filed on 21 March 2008 reveals that it is suitable for purposes of compliance with 37 CFR 1.497(a) and (b).

The $130.00 surcharge under 37 CFR 1.492(h) is being charged to Deposit Account 50-2085, as authorized in the Fee Transmittal filed on 21 March 2008.

This application is being forwarded to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **21 March 2008**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/813,124 | | Niculae MINCU | JA 14568-75 | 7410 |

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/10/2008 | PAPER |

7590 07/10/2008
BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

## 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.

Patent Publication Branch
Office of Data Management



FORM PET651D (Rev. 08/07)

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CANADA

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Hugues Maltais | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647996 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,130 | : 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 **111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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| | |
|---|---|
| In re Application of SACHDEV | : DECISION |
| US Application No.: 11/813,140 | : |
| PCT Application No.: PCT/IN2004/00441 | : |
| Int. Filing Date: 31 December 2004 | : ON |
| Priority Date: None | : |
| Attorney's File Reference: A1181/20010 | : |
| For: Process of Preparing A Garment | : PETITION |
| Infusing Color Energy and Crystal Power | : |

This is in response to applicant's "Response to Notification of Missing Requirements" filed on 06 August 2008.

## BACKGROUND

On 31 December 2004, applicants filed international application PCT/IN2004/00441. The deadline for payment of the basic national fee was 30 June 2007 which is thirty month from the priority data.

On 29 June 2007, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, inter alia, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 June 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and surcharge fee. Applicant were given two months to respond with extension of time available under 37 CFR 1.136(a).

On 06 August 08, applicant filed the present "Response to Notification of Missing Requirements."

## DISCUSSION

Applicant has stated that Mr. Rajiv name was incorrectly spelled as Rajeev in the international application.

Pursuant MPEP 201.03:" A request under 37 CFR 1.48 will not be required: where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration."

Applicant's petition to correct the spelling error of the inventor, Rajiv, in the international application is deemed sufficient.

## CONCLUSION

Applicants' request to correct typographical error in the spelling of an inventor's name is **GRANTED**.

This application is being forward to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Peng Ke
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

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9/10/09

Patent No. :7553113
Ser. No. :11813168
Inventor(s) :Naoya Omori et al.
Issued :6/30/09
Title :INDEXABLE INSERT AND METHOD OF MANUFACTURING THE SAME
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

**Henry Randall**
Decisions & Certificates
of Correction Branch
(703) 756-1571

DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
ALEXANDRIA, VA 22314

HR

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MAILED

OCT 21 2009

OFFICE OF PETITIONS

**Ditthavong Mori & Steiner, P.C.**
**918 Prince Street**
**Alexandria, VA 22314**

In re Patent No. 7,553,113 :
Issue Date: June 30, 2009 :
Application No. 11/813,168 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. 01150_1011 :

This is a decision on the request filed September 22, 2009 which will be treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Sumitomo Electric Hardmetal Corp." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Sumitomo Electric Hardmetal Corp." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

| | | |
|---|---|---|
| In re Application of | : | |
| Dong-Yeon Kim | : | DECISION ON REQUEST TO |
| Application No. 11/813,175 | : | PARTICIPATE IN PATENT |
| Filed: 09/18/2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 68531(301264) | : | PILOT PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 6, 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) 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);
(3) Examination of the U.S. application has not begun;
(4) 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;
(5) 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
(6) 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 Ram R. Shukla at 571-272-0735.

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.

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

0 7 APR 2008

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SEARS TOWER
CHICAGO IL 60606

| | |
|---|---|
| In re Application of<br>MCKIERNAN, Mary et al.<br>Application No.: 11/813,180<br>PCT No.: PCT/GB2005/005056<br>Int. Filing Date: 23 December 2005<br>Priority Date: 29 December 2004<br>Docket No.: 29610/CDT638<br>For: BLUE-SHIFTED TRIARYLAMINE POLYMER | DECISION<br><br>ON PETITION UNDER<br><br>37 CFR 1.47(a) |

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 04 February 2008.

## BACKGROUND

On 23 December 2005, applicants filed international application no. PCT/GB2005/005056, claiming a priority date of 29 December 2004. A copy of the international application was transmitted to the Office by the International Bureau on 06 July 2006. The deadline for payment of the basic national fee in the United States was 29 June 2007.

On 29 June 2007, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 03 October 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 04 February 2008, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and the fee for a two month extension of time.

## DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1) and (3) have been met. The balance of the $200 petition fee will be charged to deposit account no. 13-2855, as authorized. Applicant states the last known address of Mr. Mark Leadbeater as Rookery Farm; Depden, IP29 4BU; United Kingdom.

Item (2) has not been satisfied. Applicants must establish that the inventor has refused to sign the declaration after presentation with a complete copy of the application papers. The first hand statement says the inventor was send "patent application papers," and the cover letter says "application papers," were sent. Neither specifically indicates that a complete copy of the application, as filed, was included. Further, as the declaration furnished to the Office is defective and a copy of what was sent to the inventor has not been furnished, the Office cannot determine that the inventor was presented with a complete copy of the application papers, including a compliant oath or declaration.

Item (4) has not been satisfied. While it is acceptable for inventors to execute separate copies of the declaration, each inventor must execute a declaration in compliance with 37 CFR 1.497(a)-(b), listing each inventor and each inventor's citizenship. The complete declaration executed by each inventor must be returned to the Office. MPEP 605.04(a). Separate declarations may not be pieced together to create a single composite declaration. The declaration does not comply with 37 CFR 1.497(a)-(b).

Additionally, the declaration contains non-initialed alterations made in ink to the address of Ms. Conway and Ms. Foden. Id. New oaths or declarations are required from Ms. Conway and Ms. Foden.

## CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed via EFS-Web or if mailed, 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.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor

PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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CHICAGO IL 60606

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| In re Application of | : | |
| MCKIERNAN, Mary et al. | : | |
| Application No.: 11/813,180 | : | DECISION |
| PCT No.: PCT/GB2005/005056 | : | |
| Int. Filing Date: 23 December 2005 | : | ON PETITION UNDER |
| Priority Date: 29 December 2004 | : | |
| Docket No.: 29610/CDT638 | : | 37 CFR 1.47(a) |
| For: BLUE-SHIFTED TRIARYLAMINE | : | |
| POLYMER | : | |

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 09 June 2008.

## BACKGROUND

On 07 April 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 09 June 2008, applicant filed this renewed petition.

## DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1) and (3) were previously satisfied. Applicant states the last known address of Mr. Mark Leadbeater as Rookery Farm; Depden, IP29 4BU; United Kingdom.

Item (2) has been satisfied. Applicants now clarify that a complete copy of the application papers, as filed were sent to the inventor on two occasions. Applicants previously stated that they have been unable to obtain Mr. Leadbeater's signature on the declaration.

Item (4) has not been satisfied. Applicants were previously informed that the declarations contained non-initialed alterations made in ink to the address of Ms. Conway and Ms. Foden and that new oaths or declarations were required from Ms. Conway and Ms. Foden.

This has not been done. The signature of the inventor on the previously executed declaration is not sufficient. The certification signature is not a new oath or declaration. See MPEP 605.04(a) (stating "The Office will not consider whether nonintialed and/or nondated alterations were made before or after signed of the oath or declaration but will require a new oath or declaration"). New oaths or declarations from Ms. Conway and Ms. Foden are still required.

## CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed via EFS-Web or if mailed, 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.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
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| In re Application of | : | |
| MCKIERNAN, Mary et al. | : | |
| Application No.: 11/813,180 | : | DECISION |
| PCT No.: PCT/GB2005/005056 | : | |
| Int. Filing Date: 23 December 2005 | : | ON PETITION UNDER |
| Priority Date: 29 December 2004 | : | |
| Docket No.: 29610/CDT638 | : | 37 CFR 1.47(a) |
| For: BLUE-SHIFTED TRIARYLAMINE POLYMER | : | |

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 09 October 2008.

## BACKGROUND

On 14 August 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 09 October 2008, applicant filed this renewed petition.

## DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1), (2) and (3) were previously satisfied. Applicant states the last known address of Mr. Mark Leadbeater as Rookery Farm; Depden, IP29 4BU; United Kingdom.

Item (4) has now been satisfied. The 09 October 2008 declaration of Ms. Conway and Ms. Foden in combination with the 09 June 2008 declarations satisfy 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

## CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **09 October 2008**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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2 0 NOV 2008

Mark Leadbeater
Rookery Farm
Depden, IP29 4BU
United Kingdom

In re Application of
MCKIERNAN, Mary et al.
Application No.: 11/813,180
PCT No.: PCT/GB2005/005056
Int. Filing Date: 23 December 2005
Priority Date: 29 December 2004
Docket No.: 29610/CDT638
For: BLUE-SHIFTED TRIARYLAMINE POLYMER

Dear Mr. Leadbeater:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michel Monnerat | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595750 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,194 | : 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 **105** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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02 NOV 2007

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1635 Market Street
Philadelphia, PA 19103-2212

| | |
|---|---|
| In re Application of:<br>KUMAR, Mukul<br>U.S. Application No.: 11/813,225<br>PCT No.: PCT/IN2005/000422<br>Int. Filing Date: 14 December 2005<br>Priority Date: 14 December 2004<br>Attorney Docket No.: A1181/20009<br>For: A PROCESS FOR MANUFACTURING A FLEXIBLE PACKAGING LAMINATE FOR FILING LIQUIDS IN POUCHES SUCH AS EDIBLE OIL POUCHES | **DECISION** |

This decision is in response to applicant's petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 02 July 2007, which is hereby **GRANTED** as follows:

The basic national fee, and petition fee have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. All requirements of 37 CFR 1.137(b) are satisfied.

Applicant submitted a declaration in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge fee has been charged to Deposit Account No. 03-0075 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 December 2005 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 July 2007.

This application is being forwarded to the Office of Patent Application Processing for the mailing of a Form PCT/DO/EO/903 and Filing Receipt.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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BIRMINGHAM MI 48009

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DEC 2 2 2009

**OFFICE OF PETITIONS**

In re Application of
Tegtmeier, et al.
Application No. 11/813,238
Filed: 2 July, 2007
Attorney Docket No. 60469-352PUS1;PA000.05290

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 4 September, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) 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 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in §1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§120 and 365(c) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 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 365(c) and 37 C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

This application is being forwarded to the examiner of Technology Center/AU 2837 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the above-noted, prior-filed PCT application.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/813,238 | 07/02/2007 | 2837 | 900 | 60469-352PUS1;PA000.05290 | 16 | 2 |

**CONFIRMATION NO. 9489**

**REPLACEMENT FILING RECEIPT**

64779
CARLSON GASKEY & OLDS
400 W MAPLE STE 350
BIRMINGHAM, MI 48009

*OC000000039334202*

Date Mailed: 12/22/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Dirk Heinrich Tegtmeier, Berlin, GERMANY;
Herbert Karl Horbruegger, Berlin, GERMANY;
Michael Mann, Berlin, GERMANY;
Kristian Bernhard Wittjen, Teltow, GERMANY;

**Power of Attorney:**
Anthony Cho--47209

**Domestic Priority data as claimed by applicant**

This application is a 371 of PCT/EP05/00175 01/11/2005
and is a CIP of 10/575,024 05/22/2007 PAT 7,549,515
which is a 371 of PCT/EP03/11093 10/07/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/22/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/813,238**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Method For Performing an Elevator Rescue Run

**Preliminary Class**

187

## 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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17 MAR 2009

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In re Application of:
MAGGIO, Gian, Mario, et al.
U.S. Application No.: 11/813,244
PCT No.: PCT/EP2005/013447
International Filing Date: 14 December 2005
Priority Date: 03 January 2005
Atty Docket No.: 04-GVA-554/54597
For: METHOD OF CODING AND DECODING A PULSE SIGNAL, IN PARTICULAR AN UWB-IR SIGNAL, AND CORRESPONDING DEVICES

DECISION ON PETITION

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b) filed 22 December 2008.

## BACKGROUND

On 14 December 2005, applicants filed international application PCT/EP2005/013447. The application claimed a priority date of 03 January 2005, and it designated the United States. On 13 July 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the priority date, that is, 03 July 2007.

The published international application identifies the first inventor As Gian Mario MAGGIO.

On 02 July 2007, applicants filed a Transmittal Letter requesting for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 14 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Applicants did not file a response to the Notification Of Missing Requirements during the maximum extendable period for reply. Accordingly, the present application became abandoned at midnight on 14 May 2008.

On 17 December 2008, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) confirming that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements mailed 14 March 2008.

On 22 December 2008, applicants filed the present petition for revival under 37 CFR 1.137(b), accompanied by an executed declaration. [1]

## DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (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;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants here have failed to satisfy item (1).

Regarding item (1), the "required reply" here is a proper response to the Notification Of Missing Requirements mailed 14 March 2008, that is, an oath or declaration in compliance with 37 CFR 1.497. The present petition was accompanied by an executed declaration; however, the declaration is not in compliance with 37 CFR 1.497. Specifically, the declaration fails to properly identify the inventors of record herein in that the first inventor is identified on the declaration as Mario Gian MAGGIO, while this inventor's name of record is Gian Mario MAGGIO. In order to complete the "required reply," applicants must submit a revised declaration that properly identifies the first inventor by his name of record. If, in the alternative, the inventor is properly identified on the declaration and the name listed in the international application was incorrect, than a grantable petition under 37 CFR 1.182 to change the name of record for this inventor is required before the declaration filed 22 December 2008 may be accepted. See MPEP section 1893.01(e). Such a petition requires payment of the applicable $400 petition fee and statements from the inventor and any other person(s) having firsthand knowledge regarding the error/discrepancy in the inventor's name. Such statement(s) must confirm the correct name of the inventor, explain how the discrepancy in the inventor's name occurred, and state that the discrepancy occurred without deceptive intent.

Based on the above, applicants have not submitted the "required reply." Item (1) of a grantable petition under 37 CFR 1.137(b) is therefore not satisfied on the present record.

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[1] It is noted that the present submission also included payment of the $130 surcharge for filing the declaration later than thirty months after the priority date. However, applicants had previously paid this surcharge. Accordingly, the duplicative $130 surcharge payment included with the present petition will be refunded to applicants.

## CONCLUSION

Applicants' petition or revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the "required reply" necessary to satisfy item (1) of a grantable petition, as discussed above.

Extensions of time may be obtained under 37 CFR 1.136(a).

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

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10 JUL 2009

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| In re Application of:<br>MAGGIO, Gian, Mario, et al.<br>U.S. Application No.: 11/813,244<br>PCT No.: PCT/EP2005/013447<br>International Filing Date: 14 December 2005<br>Priority Date: 03 January 2005<br>Atty Docket No.: 04-GVA-554/54597<br>For: METHOD OF CODING AND DECODING A PULSE SIGNAL, IN PARTICULAR AN UWB-IR SIGNAL, AND CORRESPONDING DEVICES | DECISION ON RENEWED PETITION |

This decision is issued in response to the renewed Petition for Revival under 37 CFR 1.137(b) filed 18 May 2009.

## BACKGROUND

The procedural background for the present application was set forth in the decision mailed 17 March 2009. The decision dismissed the petition for revival under 37 CFR 1.137(b) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide the "required reply" in the form of an oath or declaration in compliance with 37 CFR 1.497.

On 18 May 2009, applicants filed the renewed petition considered herein.

## DISCUSSION

As discussed in the previous decision, the declaration filed by applicants on 22 December 2008 was defective in that the name listed for the first inventor (Mario Gian MAGGIO) was not consistent with the name of record for this inventor (Gian Mario MAGGIO).

The renewed petition is accompanied by a revised declaration executed by the first inventor which properly identifies this inventor as Gian Mario MAGGIO. However, the three-page revised declaration executed by the first inventor and filed with the renewed petition remains defective in that the declaration does not identify all the inventors of record herein. Specifically, the declaration does not include inventors Chiara CATTANEO and Philippe

ROUZET. While newly executed declarations are not required from these two inventors, the revised declaration executed by the first inventor must identify all the inventors of record in order to be acceptable under 37 CFR 1.497.

Based on the above, applicants have still not filed an acceptable declaration executed by each of the inventors of record. The "required reply" element of a grantable petition therefore remains unsatisfied.

## CONCLUSION

Applicants' petition or revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the "required reply" necessary to satisfy item (1) of a grantable petition, as discussed above and in the previous decision.

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

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| In re Application of:<br>MAGGIO, Gian, Mario, et al.<br>U.S. Application No.: 11/813,244<br>PCT No.: PCT/EP2005/013447<br>International Filing Date: 14 December 2005<br>Priority Date: 03 January 2005<br>Atty Docket No.: 04-GVA-554/54597<br>For: METHOD OF CODING AND DECODING A PULSE SIGNAL, IN PARTICULAR AN UWB-IR SIGNAL, AND CORRESPONDING DEVICES | DECISION ON RENEWED PETITION |

This decision is issued in response to applicant's second renewed petition for revival under 37 CFR 1.137(b) filed 17 July 2009.

## BACKGROUND

The procedural background for the present application was set forth in the decisions mailed 17 March 2009 and 10 July 2009. The decisions dismissed applicants' petition for revival under 37 CFR 1.137(b) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable declaration executed by inventor Gian Mario MAGGIO, as necessary to complete the "required reply."

On 17 July 2009, applicants filed the second renewed petition considered herein.

## DISCUSSION

The present submission was accompanied by a copy of a four-page declaration executed by inventor Gian Mario MAGGIO. This declaration properly identifies all of three inventors of record and includes all required statements and information. This submission, in combination with the previously filed declaration executed by the other two inventors of record, completes the "required reply," that is, an oath or declaration in compliance with 37 CFR 1.497. Applicants have therefore now satisfied the final outstanding element of a grantable petition for revival.

## CONCLUSION

Applicants' second renewed petition or revival under 37 CFR 1.137(b) is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 July 2009.

Richard M. Ross
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9 NOV 2009

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RESTON VA 20190

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|---|---|---|
| In re Application of | : | |
| MADSEN et al. | : | |
| Application No.: 11/813,249 | : | DECISION |
| PCT No.: PCT/DK2005/000824 | : | |
| Int. Filing Date: 23 December 2005 | : | |
| Priority Date: 03 January 2005 | : | |
| Attorney's Docket No.: ALB.031 | : | |
| For: A MULTI-ORIENTATIONAL COOLING | : | |
| SYSTEM WITH A BUBBLE PUMP | : | |

This decision is in response to applicant's petition under 37 CFR 1.182 filed 05 September 2008.

## BACKGROUND

On 02 July 2007, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US) electronically via EFS-Web. The submission included, *inter alia*, a Transmittal Letter and a preliminary amendment. The international application number keyed into EFS-Web was PCT/US2005/000824. However, the Transmittal Letter and the preliminary amendment indicate the international application number as PCT/DK2005/000824.

On 07 July 2008, a Notification was mailed indicating that a petition under 37 CFR 1.182, including the petition fee set forth in 37 CFR 1.17(f), to correct the above-stated error regarding the international application number was required.

On 05 September 2008, applicant submitted the instant petition under 37 CFR 1.182. The petition fee has been paid.

## DISCUSSION

A review of the application file including counsel's statements in the instant submission reveals that the present application should in fact be the national stage application of international application **PCT/DK2005/000824**.

The declaration of inventors filed 24 August 2007 is in compliance with 37 CFR 1.497(a)-(b).

## CONCLUSION

For the reasons set forth above, the 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 continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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**SANCHELIMA & ASSOCIATES, P.A.**
**JESUS SANCHELIMA, ESQ.**
**235 S.W. LE JEUNE ROAD**
**MIAMI, FL 33134**

MAILED

JUN 07 2010

OFFICE OF PETITIONS

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| In re Application of | : | |
| Alberto Pons Raga | : | DECISION ON PETITION |
| Application No. 11/813,271 | : | TO WITHDRAW |
| Filed: July 2, 2007 | : | FROM RECORD |
| Attorney Docket No. 270220 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2010.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioner was appointed by registration number not Customer Number. Therefore, any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

There is an outstanding Office action mailed March 16, 2010, that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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NORTH POINT
HONG KONG

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| In re Application of | : | |
| Huang et al. | : | |
| Application No.: 11/813,286 | : | |
| PCT No.: PCT/US2005/028186 | : | |
| Int. Filing Date: 08 August 2005 | : | DECISION |
| Priority Date: 04 January 2005 | : | |
| Attorney Docket No.: G002.001.NPEUS | : | |
| For: Use Of IL-22 For The Treatment Of | : | |
| Conditions Of Metabolic Disorders | : | |

This is with regard to the petition under 37 CFR 1.181 filed on 21 April 2008.

## BACKGROUND

This international application was filed on 08 August 2005, designated the United States, and claimed an earliest priority date of 04 January 2005. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 05 July 2007. Applicants filed *inter alia* a small entity basic national fee on 03 July 2007.

On 03 April 2008, a Notice of Insufficient Basic National Fee... (form PCT/DO/EO/912) was mailed to applicants.

## DISCUSSION

Petitioner urges that the Notice of Insufficient Basic National Fee was improper because applicants paid fees sufficient to cover the basic national fee on 03 July 2007. Review of the record reveals that the Transmittal Letter filed on 03 July 2007 included a claim of small entity status. Further review reveals that, on that same day, applicants paid funds sufficient to cover the claimed small entity basic national fee. Therefore, the Notice of Insufficient Basic National Fee mailed on 03 April 2008 was in error, and it is hereby **VACATED**. To the extent that the Notice of Insufficient Basic National Fee implies a holding of abandonment, the holding of abandonment is hereby **WITHDRAWN**.

## CONCLUSION

The petition is **GRANTED**, as described above..

This application is being returned to the Office of Patent Application Processing for further processing as the U.S. national stage under 35 U.S.C. 371 of PCT/US2005/028186. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **03 July 2007**.

/George Dombroske/
George Dombroske
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| In re Application of<br>BADIA I FARRE, Jordi et al.<br>Application No.: 11/813,300<br>PCT No.: PCT/IB2005/003703<br>Int. Filing Date: 29 November 2005<br>Priority Date: 13 December 2004<br>Docket No.:5460-001<br>For: PERSONAL COMMUNICATION SYSTEM BASED ON THE USE OF MOBILE TELEPHONY, AND DEVICE AND TELEPHONE USED IN SAID SYSTEM | DECISION<br><br>ON PETITION UNDER<br><br>37 CFR 1.137(b) |

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 03 July 2007 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration of inventorship in compliance with 37 CFR 1.497(a)-(b). The fee for late filing of the search fee, examination fee or oath or declaration has been paid.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 August 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Facsimile: 571-273-0459

15 SEP 2008

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MONTREAL QC H3A-1X6 CA CANADA

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| In re Application of | : | |
| Chaussee et al. | : | |
| Application No.: 11/813,316 | : | DECISION |
| PCT No.: PCT/CA2006/000009 | : | |
| Int. Filing Date: 04 January 2006 | : | ON |
| Priority Date: 05 January 2005 | : | |
| Attorney Docket No.: 3705-039 | : | PETITION |
| For: A Starter Element For Stackable Inter-Engaging Bricks: | | |

This is in response to the petition under 37 CFR 1.47(a) filed on 27 August 2008.

## BACKGROUND

This international application was filed on 04 January 2006, claimed an earlier priority date of 05 January 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 July 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 July 2007. Applicants filed *inter alia* the basic national fee on 03 July 2007.

On 21 August 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of, *inter alia*, an oath or declaration compliant with 37 CFR 1.497(a) and (b).

## DISCUSSION

Petitioner alleges that joint inventor Dominic Chaussee "has refused to sign the Declaration." A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, petitioner has paid the $200.00 petition fee.

Regarding **requirement (2)**, petitioner has provided an "Affidavit of Francois Cartier" which indicates, in paragraph 21, that Mr. Chaussee made an explicit oral refusal to execute the application to Mr. Cartier on 11 April 2008. Mr. Cartier also indicates that copies of the declaration and the application papers were sent to Mr. Chaussee, both at his last known residential address and at his employer's address.[1] The correspondence in question appears to

[1]Page 4 of the petition indicates that Mr. Chaussee had agreed for a Mrs. Beauchamp to send the "necessary documents" to Mr. Chaussee's employer's address, but no supporting statement on the basis of first-hand knowledge from Mrs. Beauchamp has been provided.

have been sent by a Mr. Valotaire, but Mr. Valotaire's first-hand statement has not been provided. Inspection of the translated letter itself (dated 12 October 2007) reveals that it refers to a Declaration and a "Cession/Assignment" as attachments, but that it does not explicitly indicate that a complete copy of the application itself is attached. Moreover, inspection of the remaining evidence presented also does not result in a clear indication that Mr. Chaussee was presented with a complete copy of the application papers. In the absence of an adequate showing that Mr. Chaussee's refusal was made after being presented with a complete copy of the application papers (along with the oath or declaration for execution), it would not be appropriate to deem requirement (2) to have been satisfied at this time. *See* MPEP 409.03(d).

Regarding **requirement (3)**, the petition includes a statement of the last known address of the non-signing inventor.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 27 August 2008 reveals that it is signed by joint inventors Gauthier and Turgeon on behalf of themselves and non-signing joint inventor Chaussee. Further inspection reveals that that Mr. Turgeon's residence address information has been altered, but the alteration is acceptable because it (and the "see below" indication) were initialed. This declaration satisfies requirement (4).

## DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
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| In re Application of | : | |
| Chaussee et al. | : | |
| Application No.: 11/813,316 | : | DECISION |
| PCT No.: PCT/CA2006/000009 | : | |
| Int. Filing Date: 04 January 2006 | : | ON |
| Priority Date: 05 January 2005 | : | |
| Attorney Docket No.: 3705-039 | : | PETITION |
| For: A Starter Element For Stackable Inter-Engaging Bricks: | | |

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 10 October 2008.

## DISCUSSION

In a Decision mailed on 15 September 2008, the petition under 37 CFR 1.47(a) filed on 27 August 2008 was dismissed, without prejudice, because

> Regarding requirement (2), petitioner has provided an "Affidavit of Francois Cartier" which indicates, in paragraph 21, that Mr. Chaussee made an explicit oral refusal to execute the application to Mr. Cartier on 11 April 2008. Mr. Cartier also indicates that copies of the declaration and the application papers were sent to Mr. Chaussee, both at his last known residential address and at his employer's address.[1] The correspondence in question appears to have been sent by a Mr. Valotaire, but Mr. Valotaire's first-hand statement has not been provided. Inspection of the translated letter itself (dated 12 October 2007) reveals that it refers to a Declaration and a "Cession/Assignment" as attachments, but that it does not explicitly indicate that a complete copy of the application itself is attached. Moreover, inspection of the remaining evidence presented also does not result in a clear indication that Mr. Chaussee was presented with a complete copy of the application papers. In the absence of an adequate showing that Mr. Chaussee's refusal was made after being presented with a complete copy of the application papers (along with the oath or declaration for execution), it would not be appropriate to deem requirement (2) to have been satisfied at this time. *See* MPEP 409.03(d).

**In response**, petitioner has presented an "Affidavit of Michel Valotaire" in which Atty. Valotaire indicates that, on 12 October 2007, he sent a letter to Mr. Chaussee's last known home address, accompanied by a declaration document and a complete copy of the international application. Petitioner has also presented an "Affidavit of Chantal Beauchamp" in which Ms. Beauchamp indicates that, on 06 November 2007, she sent a combined Declaration and Power of Attorney and a full copy of the international application to Mr. Chaussee's employment address, in response to a telephone conversation with Mr. Chaussee. Based on the totality of the evidence now of record, it would be appropriate to conclude that petitioner had provided Mr. Chaussee

with a complete copy of the application papers and a declaration, prior to his explicit oral refusal made to Francois Cartier on 11 April 2008. Therefore, requirement (2) now has been satisfied.

## DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 August 2008**.

/George Dombroske/
George Dombroske
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10 NOV 2008

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Dominic Chaussee
6600, 24th Avenue
Montreal, Quebec H1T 3M7
CANADA

In re Application of
Chaussee et al.
Application No.: 11/813,316
PCT No.: PCT/CA2006/000009
Int. Filing Date: 04 January 2006
Priority Date: 05 January 2005
Attorney Docket No.: 3705-039
For: A Starter Element For Stackable
Inter-Engaging Bricks

Dear Mr. Chaussee:

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) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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**NEW YORK NY 10004**

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| In re Application | : | |
| Jacques Lambey | : | |
| Application No. 11/813,317 | : | DECISION ON PETITION |
| Filed: July 3, 2007 | : | |
| Attorney Docket No. 079551-01220 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 19, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 20, 2009. A Notice of Abandonment was mailed on 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 an amendment and election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the amendment and election is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received March 19, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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| In re Application of | : | |
| BUNCE, Philip | : | |
| Application No.: 11/813,320 | : | DECISION ON |
| PCT No.: PCT/AU2006/000019 | : | |
| Int. Filing Date: 09 January 2006 | : | PETITION UNDER |
| Priority Date: 07 January 2005 | : | |
| Attorney Docket No.: 03955.0166USWO | : | 37 CFR 1.47(b) |
| For: LOCATING MEANS | : | |

This is a decision on applicant's Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 02 September 2008.

## BACKGROUND

On 02 June 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for lated filing of the search fee, examination fee or oath or declaration were required.

On 02 September 2008, applicant submitted this petition under 37 CFR 1.47 accompanied by the fee for a one month extension of time.

## DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) have been met. (1) The $200 petition fee has been paid. (3) Applicants state the last known address of Mr. Philip Bunce as 7 Beverly Street; Portland, Victoria 3305; Australia. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Mr. Harwood details his efforts to obtain the signature of Mr. Bunce on the declaration, but has not furnished a copy of the papers presented to Mr. Bunce

through his attorney. Copies of documentary evidence are normally required. They are particularly required the 02 June 2008 letter from Mr. Bunce's counsel states that the documents will not be signed until "amendments made as sought". If the papers were not in order, it would be appropriate for the inventor not to sign them. According to the Tait & Co letter, Iain White was also an inventor and Mr. Bunce was reluctant to sign papers stating that he was the sole inventor as he did not believe that was correct.

Item (5) has been satisfied. However, it is unclear why applicants have included an assignment from someone that applicants claim is not an inventor in this application, as he is not listed on the application.

## CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, 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.

/Erin P. Thomson/

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Attorney Advisor
PCT Legal Administration

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6 MAY 2009

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| In re Application of | : | |
| BUNCE, Philip | : | |
| Application No.: 11/813,320 | : | DECISION ON |
| PCT No.: PCT/AU2006/000019 | : | |
| Int. Filing Date: 09 January 2006 | : | PETITION UNDER |
| Priority Date: 07 January 2005 | : | |
| Attorney Docket No.: 03955.0166USWO | : | 37 CFR 1.47(b) |
| For: LOCATING MEANS | : | |

This is a decision on applicant's Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 16 March 2009.

## BACKGROUND

On 05 November 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 16 March 2009, applicant submitted this petition under 37 CFR 1.47 accompanied by the fee for a three month extension of time.

## DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) were previously satisfied. (1) The $200 petition fee has been paid. (3) Applicants state the last known address of Mr. Philip Bunce as 7 Beverly Street; Portland, Victoria 3305; Australia. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has now been satisfied.

Item (5) was previously satisfied.

## CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **02 September 2008**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
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6 MAY 2009

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Philip Bunce
7 Beverly Street
Portland, Victoria 3305
Australia

In re Application of
BUNCE, Philip
Application No.: 11/813,320
PCT No.: PCT/AU2006/000019
Int. Filing Date: 09 January 2006
Priority Date: 07 January 2005
Attorney Docket No.: 03955.0166USWO
For: LOCATING MEANS

Dear Mr. Bunce:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

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| In re Application of | : | |
| BUNCE, Philip | : | DECISION ON PETITION |
| Serial No.: 11/813,322 | : | |
| PCT No.: PCT/AU06/00015 | : | UNDER 37 CFR 1.47(b) |
| Int. Filing Date: 06 January 2006 | : | |
| Priority Date: 07 January 2005 | : | |
| Atty Docket No.: 03955.0167USWO | : | |
| For: JIG | : | |

This decision is in response to the "Petition Under 37 C.F.R. 1.47(b)" filed 09 June 2008 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 06 January 2006, applicant filed international application PCT/AU06/00015 which claimed priority to an earlier application filed 07 January 2005. A copy of the international application was transmitted to the United States by the International Bureau (IB) on 13 July 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 07 July 2007.

On 03 July 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An executed oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 07 March 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than 30 months from the earliest priority date. (37 CFR 1.492(e)). Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 09 June 2008, applicant responded with the present petition.

## DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant has satisfied items (1), (2), (3), and (6).

Applicant here has submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor (or his/her attorney) be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Philip Bunce's refusal to execute the application papers is contained in the "Statutory Declaration" provided by Errol John Harwood included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicant has provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), the petition includes a declaration that was apparently executed on behalf of the nonsigning inventor. However, the declaration does not identify the person who executed the declaration. A revised declaration is required that properly identifies both the nonsigning inventor and the 37 CFR 1.47(b) applicant. This declaration must be executed by a specifically named individual with stated or apparent authority to act on behalf of the 37 CFR 1.47(b) applicant. On the present record, item (4) is not satisfied.

As to item (5), applicant has not provided proof of proprietary interest. Applicant has not provided a signed assignment document nor employment agreement. MPEP 409.03(f) provides for cases where a signed assignment is not present:

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that

jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner states that "an opinion from the law firm of Tait & Co. (an Australian Law Firm) dated 22 February 2008 states that under Australian law, it is their opinion that the invention is owned by Eastland Medical." However, the legal memorandum has not executed and it is unclear whether it was prepared by an attorney. Therefore, applicant has not satisfied this item (5).

Regarding item (6), the petition includes the required express statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is therefore satisfied.

In light of the above, it is not possible to grant applicant's petition at this time.

## CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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.

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3 0 MAR 2009

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| In re Application of | : | |
| BUNCE, Philip | : | DECISION ON PETITION |
| Serial No.: 11/813,322 | : | |
| PCT No.: PCT/AU06/00015 | : | UNDER 37 CFR 1.47(b) |
| Int. Filing Date: 06 January 2006 | : | |
| Priority Date: 07 January 2005 | : | |
| Atty Docket No.: 03955.0167USWO | : | |
| For: JIG | : | |

In a decision mailed by this Office on 14 November 2008, the petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted (1) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor and (2) an adequate showing that the 37 CFR 1.47(b) applicant has a proprietary interest in the present application.

On 13 February 2009, petitioner filed the renewed petition considered herein. The renewed petition is accompanied by an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor. Further, the renewed petition includes supplemental materials which, in combination with the previously filed materials, adequately demonstrate that the 37 CFR 1.47(b) applicant has the necessary proprietary interest in the present application.

The renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Philip BUNCE.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the renewed petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 February 2009.

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Philip Bunce
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In re Application of
BUNCE, Philip
Serial No.: 11/813,322
PCT No.: PCT/AU06/00015
Int. Filing Date: 06 January 2006
Priority Date: 07 January 2005
Atty Docket No.: 03955.0167USWO
For: JIG

Dear Mr. Bunce:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in 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.

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0 8 APR 2008

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| In re Application of | |
| HUTTER et al. | : |
| Application No. 11/813,332 | : |
| PCT No.: PCT/EP05/00027 | : |
| Int. Filing Date: 04 January 2005 | : DECISION ON PETITION |
| Priority Date: None | : UNDER 37 CFR 1.181 |
| Attorney Docket No.: 114732-154271 | : |
| For: METHOD AND DEVICE FOR ANALYZING SUBSTANCES | : |

This decision is issued in response to applicant's "Petition to Vacate the Notification of Missing Requirements (Form PCT/DO/EO/905)" filed 11 February 2008 which is being treated herein as a Petition under 37 CFR 1.181.

## BACKGROUND

On 04 January 2005, applicant filed the above identified international application which claimed no priority date. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 July 2007.

On 03 July 2007, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a translation of the international application; an application data sheet; and a preliminary amendment.

On 14 December 2007, applicant filed an executed declaration and power of attorney.

On 31 January 2008, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the English translation of PCT/EP05/00027 was required. The notification set a two-month time limit in which to respond.

On 11 February 2008, applicant filed "Petition to Vacate Notification of Missing Requirements Form PCT/DO/EO/905."

## DISCUSSION

Applicant states in their present petition that an English translation of PCT/EP05/00027 was received at the United States Patent and Trademark Office on 03 July 2007. A review of the application file reveals that the English translation of PCT/EP05/00027 originally filed 03 July 2007 is located therein, therefore, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) was mailed in error.

## CONCLUSION

Applicant's petition to withdraw the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) is **GRANTED**.

In view of the receipt of the English translation of PCT/EP05/00027 filed 03 July 2007, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) was mailed in error and is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

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0 6 JAN 2009

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| In re Application of<br>OFER LIDER (Deceased)<br>Application No.: 11/813,333<br>PCT No.: PCT/IL06/00014<br>Int. Filing Date: 04 January 2006<br>Priority Date: 04 January 2005<br>Attorney Docket no.: 15872.040<br>For: HSP60, HSP60 PEPTIDES AND T CELL VACCINES FOR IMMUNOMODULATION | DECISION ON<br>REQUEST<br>UNDER 37 CFR 1.42 |

This is a decision on applicant's declaration filed in the United States Patent and Trademark Office (USPTO) on 21 May 2008 treated as a request under 37 CFR 1.42.

## BACKGROUND

On 07 April 2006, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. The published international application identified Ofer Lider as a deceased inventor and identified Osnat Lider and Lihi Lider as joint inventors.

On 24 March 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 1.497 (a) and (b) and the surcharge for filing the oath or declaration, after the thirty month period, was required.

On 21 May 2008, Applicant submitted a response to the Notification along with three declarations of the inventors, identifying Osnat Lider and Lihi Lider as legal representatives for Ofer Lider (deceased). The declaration did not identify Ofer Lider as the deceased inventor and Osnat Lider and Lihi Lider as joint inventors. Osnat Lider executed a declaration on his behalf as legal representative and on behalf of Lihi Lider as legal representative of the deceased inventor.

## DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

*37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor.* 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal

representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and *indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor* to comply with 37 CFR 1.497(a)(3).

The declarations provided on 21 May 2008 are defective and do not meet the requirements of 37 CFR 1.497(a) and (b) for numerous reasons.

First, while the published international application identifies Osnat Lider and Lihi Lider as inventors, the declarations do not identify them as joint inventors, do not provide their respective country of citizenship, residency and mailing address for them and are not executed by them in accord with 37 CFR 1.497(a) and (b).

Second, the declarations do not identify the deceased inventor Ofer Lider and do not provide the citizenship, residency and mailing address of the deceased inventor.

Third, the declarations identify Lihi Lider as the legal representative of the deceased inventor Ofer Lider but are not executed the declaration as such. Instead, Osnat Lider signed for Lihi Lider as legal representative of the deceased inventor. If Lihi Lider is the legal representative of deceased inventor Ofer Lider, then Lihi Lider must execute the declaration as such.

In addition, the declarations are defective because they do not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42. Newly executed declarations are required, which identify Ofer Lider, Osnat Lider and Lihi Lider as inventors providing their respective country of citizenship, residency and mailing address. In addition, the declaration must be signed by the legal representative of the decease inventor in accordance with 37 CFR 1.497(b).

## CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision.

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.

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2 1 SEP 2009

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| In re Application of<br>OFER LIDER (Deceased)<br>Application No.: 11/813,333<br>PCT No.: PCT/IL06/00014<br>Int. Filing Date: 04 January 2006<br>Priority Date: 04 January 2005<br>Attorney Docket no.: 15872.040<br>For: HSP60, HSP60 PEPTIDES AND T CELL VACCINES FOR IMMUNOMODULATION | DECISION ON<br>REQUEST<br>UNDER 37 CFR 1.42 |

This is a decision on applicant's response to decision on request under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 04 March 2009.

## BACKGROUND

On 07 April 2006, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. The published international application identified Ofer Lider as a deceased inventor and identified Osnat Lider and Lihi Lider as joint inventors.

On 24 March 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 1.497 (a) and (b) and the surcharge for filing the oath or declaration, after the thirty month period, was required.

On 21 May 2008, Applicant submitted a response to the Notification along with three declarations of the inventors, identifying Osnat Lider and Lihi Lider as legal representatives for Ofer Lider (deceased). The declaration did not identify Ofer Lider as the deceased inventor and Osnat Lider and Lihi Lider as joint inventors. Osnat Lider executed a declaration on his behalf as legal representative and on behalf of Lihi Lider as legal representative of the deceased inventor.

On 06 January 2009, a decision was mailed indicating that the declarations as submitted did not comply with 37 CFR 1.497(a) and (b) and that newly executed declarations were required.

## DISCUSSION

As previously stated, 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declarations provided on 04 March 2009 meet the requirements of 37 CFR 1.497(a) and (b). Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

## CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED.**

The declarations executed by the joint inventors and by the legal representative for deceased inventor Ofer Lider submitted on 04 March 2009 are accepted as a proper declarations under 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 04 March 2009.

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22 JAN 2009

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| In re Application of:<br>BRUNNER, Matthias, et al.<br>U.S. Application No.: 11/813,334<br>PCT No.: PCT/EP2006/000068<br>International Filing Date: 05 January 2006<br>Priority Date: 05 January 2005<br>Docket No.: ZIMR/0067<br>For: METHOD FOR BEAM CALIBRATION AND USAGE OF A CALIBRATION BODY | DECISION ON REQUEST UNDER 37 CFR 1.497(d) |

This decision is issued in response to the "Petition And Amendment To Correct Inventorship Under Rule 1.48(a)" filed 10 September 2008, treated herein under 37 CFR 1.497(d).[1] Applicants have submitted the required processing fee.

## BACKGROUND

On 05 January 2006, applicants filed international application PCT/EP2006/000068. The international application claimed a priority date of 05 January 2005, and it designated the United States. On 13 July 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 05 July 2007.

The published international application identified three applicant/inventors with respect to the U.S.: Matthias BRUNNER, Ralf SCHMID, and Bernhard MUELLER.

On 03 July 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 13 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

[1] 37 CFR 1.48(a) does not apply in a national stage application filed under 35 U.S.C. 371 where, as here, the requirements of 35 U.S.C. 371(c) have not yet been satisfied. In such cases, the applicable regulation is 37 CFR 1.497(d).

On 21 April 2008, applicants filed a response to the Notification Of Missing Requirements including an executed declaration document and payment of the required surcharge.

On 10 September 2008, applicants filed a revised declaration which names and is executed by a fourth inventor, Axel WENZEL, accompanied by the request to correct inventorship considered herein. The submission seeks to add Axel WENZEL as a fourth inventor of record herein.

## DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicants have now filed a declaration document that includes a fourth inventor who was not identified as an inventor in the international application. Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

With respect to requirement (A) above, applicants have provided the required statement of non-deceptive intent from the person being added as an inventor (Axel WENZEL). Requirement (A) is therefore satisfied.

With respect to requirement (B) above, applicants have submitted the required processing fee. Requirement (B) is therefore satisfied.

With respect to item (C) above, applicants have submitted the written consent of the assignee to the change of inventorship, and such consent has been provided in compliance with 37 CFR 3.73(b). Requirement (C) is therefore satisfied.

Based on the above, applicants have provided requirements (A)-(C) of a grantable request to correct the inventive entity pursuant to 37 CFR 1.497(d). However, 37 CFR 1.497(d) also requires submission of an acceptable declaration naming the correct inventive entity, and the declaration filed by applicants herein is not acceptable as filed. Specifically, the declaration is defective because it contains hand-written alterations in the addresses of the third and fourth inventors. Any changes made in ink in the application or declaration prior to signing should be initiated and dated by the applicants prior to execution of the 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 (see MPEP 605.04(a)). Therefore, a newly executed declaration is required from the third and fourth inventors here.

Until applicants submit a revised declaration that is acceptable in compliance with 37 CFR 1.497 (containing no uninitialed, undated hand-written alterations) the requested addition of Axel WENZEL as a fourth inventor of record herein cannot be granted.

## CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The declaration filed 23 July 2007, which includes a fourth inventor, Axel WENZEL, and which includes uninitialed, undated hand-written alterations, is not acceptable in its current form.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include a revised declaration acceptable in compliance with 37 CFR 1.497 (containing no uninitialed, undated hand-written alterations).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, 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.

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17 AUG 2009

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| In re Application of:<br>BRUNNER, Matthias, et al.<br>U.S. Application No.: 11/813,334<br>PCT No.: PCT/EP2006/000068<br>International Filing Date: 05 January 2006<br>Priority Date: 05 January 2005<br>Docket No.: ZIMR/0067<br>For: METHOD FOR BEAM CALIBRATION AND USAGE OF A CALIBRATION BODY | DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d) |

This decision is issued in response to the "Renewed Petition And Amendment To Correct Inventorship Under Rule 1.48(a)" filed 12 March 2009, treated herein as a renewed request under 37 CFR 1.497(d). Applicants have previously submitted the required $130 processing fee.

## BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 22 January 2009. That decision dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, applicants had failed to provide an acceptable declaration naming the correct inventive entity.

On 12 March 2009, applicants filed the renewed request considered herein.

## DISCUSSION

The renewed petition was accompanied by a revised declaration executed by the three inventors of record and the inventor to be added, Axel WENZEL. The revised declaration includes all required information and does not include any hand-written alterations (thereby resolving the defect in the previously filed declaration).

Based on the above, applicants have now satisfied the final requirement for a grantable request to correct inventorship under 37 CFR 1.497(d). The requested addition of Axel WENZEL as an additional inventor of record pursuant to 37 CFR 1.497(d) is therefore appropriately granted.

## CONCLUSION

Applicants' renewed request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship of record herein is corrected to add Axel WENZEL as an additional inventor of record herein.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 March 2009.

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| In re Application of | : | |
| Salvador Ros Roca | : | |
| Application No. 11/813,348 | : | DECISION ON PETITION |
| Filed: July 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 2700222 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 5, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Sanchelima & Associates, PA 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

cc: SALVADOR ROS ROCA
C/ANTONETE GALVEZ, 16
ROLDAN E-30709 SPAIN

11 SEP 2008

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| In re Application of:<br>CHAUSSEE, Dominic, et al.<br>U.S. Application No.: 11/813,374<br>PCT No.: PCT/CA2006/000014<br>International Filing Date: 09 January 2006<br>Priority Date: 11 January 2005<br>Atty's Docket No.: 03705-035<br>For: A MOLDING EQUIPMENT AND METHOD TO MANUFACTURE STACKABLE INTER-ENGAGING BRICKS, BLOCKS, STONES AND THE LIKE WITH A SMOOTH OR EMBOSSED FACE | DECISION ON PETITION UNDER 37 CFR 1.47(a) |

This decision is issued in response to applicants' "Petition Pursuant To 37 CFR 1.47(a)" filed 12 June 2008. Applicants have paid the required petition fee.

## BACKGROUND

On 09 January 2006, applicants filed international application PCT/CA2006/000014. The international application claimed a priority date of 11 January 2005, and it designated the United States. On 20 July 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 11 July 2007.

On 05 July 2007, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 13 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and payment of the search fee and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 12 June 2008, applicants filed a response to the Notification Of Missing Requirements (with required one-month extension fee). The response included payment of the

required search fee and surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Dominic CHAUSSEE, whom applicants assert has refused to execute the application.

## DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have provided the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all 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 joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed two three-page declarations, one executed by each of the two cooperating inventors, and each including an unsigned signature block for the non-signing inventor, Dominic CHAUSSEE. These declarations may be accepted as having been executed by the signing inventor on his own behalf and on behalf of the non-signing inventor. However, the declaration executed by inventor Luis Trelles TURGEON includes a handwritten alteration with respect to the inventor's address that is not initialed and dated. Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of 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 (see MPEP §605.04(a) and 37 CFR 1.52(c)). Thus, a newly executed declaration is required from inventor Luis Trelles TURGEON. Until such declaration is provided, item (3) of a grantable petition is not satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute 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 MPEP also states the following:

> 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.

Here, as evidence of the inventor's refusal to execute the declaration, applicants have provided a declaration of Francois Cartier, with accompanying exhibits. These materials provide an acceptable showing that the non-signing inventor has been provided with a copy of the application materials and has expressly refused to sign the declaration. Item (4) is therefore satisfied.

Based on the above, applicants have failed to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a).

## CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (3) of a grantable petition, as discussed above and in the MPEP, that is, a revised declaration executed by co-inventor Luis Trelles TURGEON that does not contain any undated, non-initialed alterations, complies with the requirements of 37 CFR 1.47(a), names all the inventors, and includes an unsigned signature block for the non-signing inventor. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, 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.

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| In re Application of:<br>CHAUSSEE, Dominic, et al.<br>U.S. Application No.: 11/813,374<br>PCT No.: PCT/CA2006/000014<br>International Filing Date: 09 January 2006<br>Priority Date: 11 January 2005<br>Atty's Docket No.: 03705-035<br>For: A MOLDING EQUIPMENT AND METHOD TO MANUFACTURE STACKABLE INTER-ENGAGING BRICKS, BLOCKS, STONES AND THE LIKE WITH A SMOOTH OR EMBOSSED FACE | DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a) |

This decision is issued in response to applicants' "Renewed Petition Pursuant To 37 CFR 1.47(a)" filed 12 November 2008. No additional petition fee is required.

## BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 11 September 2008. The decision dismissed without prejudice applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor.

On 12 November 2008, applicants filed the renewed petition considered herein.

## DISCUSSION

The previous decision indicated that the declaration filed on 12 June 2008 that was executed by inventor Luis Trelles TURGEON was unacceptable because it included a handwritten alteration with respect to the inventor's address that did not appear to be initialed and dated. The renewed petition argues that the signing inventor initialed the change, with an indication of "see below" directed to the handwritten address listed below the signature box. Upon further review, it is accepted that the handwritten address change listed on this declaration

was effectively initialed by the signing inventor. Accordingly, this declaration may be accepted under 37 CFR 1.497.

Based on the above, applicants have satisfied the final requirement for a grantable petition under 37 CFFR 1.47(a). Granting of the petition is therefore appropriate.

## CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Dominic CHAUSSEE.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 June 2008.

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0 6 JAN 2009

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In re Application of: CHAUSSEE, Dominic, et al.
U.S. Application No.: 11/813,374
PCT No.: PCT/CA2006/000014
International Filing Date: 09 January 2006
Priority Date: 11 January 2005
Atty's Docket No.: 03705-035
For: A MOLDING EQUIPMENT AND METHOD TO MANUFACTURE STACKABLE INTER-ENGAGING BRICKS, BLOCKS, STONES AND THE LIKE WITH A SMOOTH OR EMBOSSED FACE

Dear Mr. CHAUSSEE:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney 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.

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| In re Application of | : | DECISION |
| BENGTSSON et al. | : | |
| Application No.: 11/813,429 | : | |
| PCT No.: PCT/EP2006/050176 | : | |
| Int. Filing Date: 12 January 2006 | : | |
| Priority Date: 17 January 2005 | : | |
| Attorney Docket No.: 6984.204-US | : | |
| For: FLUID DELIVERY DEVICE WITH | : | |
| INTEGRATED MONITORING OF | : | |
| PHYSIOLOGICAL CHARACTERISTICS | : | |

This decision is in response to applicants' submission filed 21 May 2008 which includes a petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.497(d)

## BACKGROUND

On 12 January 2006, applicants filed international application PCT/EP2006/050176, which designated the United States and claimed a priority date of 17 January 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 July 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2007.

On 06 July 2007, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 21 May 2008, applicants filed a submission including a petition/fee for a four-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a petition under 37 CFR 1.47(a), and a petition under 37 CFR 1.497(d).

## DISCUSSION

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1) and (3) have been met.

Item (2) has not been met. It is not clear whether it is being alleged that Nicola Levandis refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." The declaration of facts by Lotte Lou states that a declaration of inventors was sent to Mr. Levandis's last known address. However, it is not clear whether or not Mr. Levandis lives at this address. It does not appear that the mailing was made using any sort of acknowledgment of receipt.

If it is being alleged that Mr. Levandis refuses to sign, the inventor must be presented with a complete copy of the application papers (specification, including claims, drawing, and oath or declaration) for a refusal to be established. See MPEP 409.03(d). "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)." Here, it appears that only a copy of the declaration of inventors was sent to the last known address of Mr. Levandis.

If it is being alleged that Mr. Levandis cannot be reached or found, a bona fide attempt to find his address must be made and copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I.

Item (4) has not been met. The declaration filed 21 May 2008 is an improper composite declaration, consisting of one Page 1, one Page 2, and two Page 3's. Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Items (1) and (2) have been met. Item (4) is not required.

Item (3) has not been satisfied. The petition under 37 CFR 1.47(a) indicates that an assignment has been executed. If an assignment has been executed, a proper showing under 37 CFR 3.73(b) and the written consent of the assignee are required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

*Declaration of Inventors*

There is a difference in the spelling of the last name of the sixth inventor between the declaration of inventors (Randlev) and the statement under 37 CFR 1.497(d) (Randloev). An explanation of the difference is required.

## CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition under 37 CFR 1.47(a) and/or 37 CFR 1.497(d) is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response must include an explanation of the difference in the spelling of the last name of the sixth inventor between the declaration of inventors (Randlev) and the statement under 37 CFR 1.497(d) (Randloev). **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) [and/or 37 CFR 1.497(d), as appropriate]." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be 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.

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| In re Application of | : | DECISION |
| BENGTSSON et al. | : | |
| Application No.: 11/813,429 | : | |
| PCT No.: PCT/EP2006/050176 | : | |
| Int. Filing Date: 12 January 2006 | : | |
| Priority Date: 17 January 2005 | : | |
| Attorney Docket No.: 6984.204-US | : | |
| For: FLUID DELIVERY DEVICE WITH | : | |
| INTEGRATED MONITORING OF | : | |
| PHYSIOLOGICAL CHARACTERISTICS | : | |

This decision is in response to applicants' submission filed 08 September 2008 which includes a petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.497(d)

## BACKGROUND

On 12 January 2006, applicants filed international application PCT/EP2006/050176, which designated the United States and claimed a priority date of 17 January 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 July 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2007.

On 06 July 2007, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 21 May 2008, applicants filed a submission including a petition/fee for a four-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a petition under 37 CFR 1.47(a), and a petition under 37 CFR 1.497(d).

On 08 July 2008, a decision was issued dismissing without prejudice applicants' petitions under both 37 CFR 1.47(a) and 37 CFR 1.497(d). Regarding the petition under 37 CFR 1.47(a), it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided nor had an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Regarding the petition under 37 CFR 1.497(d), it was noted that if an assignment had been executed, a proper showing under 37 CFR 3.73(b) and the written consent of the assignee were required.

## DISCUSSION

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision issued 08 July 2008, items (1) and (3) have been met.

Item (4) has now been met as well.

Item (2) has still not been met. The declaration of Pia E. Nyholm indicates that the application papers were sent to non-signing inventor Niclola Levandis at his last known address which was obtained from the internet. However, the only enclosure pertaining to the internet merely shows the search page; no results pages are included. Thus, it is not clear how it was determined that this was Mr. Levandis's address. Additionally, the declaration is silent as to whether this package was delivered or not. What appears to be a returned copy of the front of an envelope is enclosed, but the addressee is illegible and it is not clear from the envelope why it was returned. This envelope is not discussed in the declaration of Pia E. Nyholm. Also, the declaration states that Pia Nyholm "phoned [Mr. Levandis's] mobile number numerous times regarding signing of a new inventor declaration in this application." However, the declaration fails to indicate what occurred during these phone calls. For example, were any of the calls answered? If not, were any messages left?

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a

change to the inventive entity has been effected under PCT Rule 92$^{bis}$ subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in Sec. 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision issued 08 July 2008, items (1) and (2) have been met and item (4) is not required.

Item (3) still has not been satisfied. Although a proper showing under 37 CFR 3.73(b) has been provided, the written consent of the assignee is also required.

*Declaration of Inventors*

The explanation of the difference in the spelling of the last name of the sixth inventor between the declaration of inventors (Randlev) and the statement under 37 CFR 1.497(d) (Randloev) is accepted and noted for the record.

## CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition under 37 CFR 1.47(a) and/or 37 CFR 1.497(d) is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response must include an explanation of the difference in the spelling of the last name of the sixth inventor between the declaration of inventors (Randlev) and the statement under 37 CFR 1.497(d) (Randloev). **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) [and/or 37 CFR 1.497(d), as appropriate]." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via

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| Int. Filing Date: 12 January 2006 | : | |
| Priority Date: 17 January 2005 | : | |
| Attorney Docket No.: 6984.204-US | : | |
| For: FLUID DELIVERY DEVICE WITH | : | |
| INTEGRATED MONITORING OF | : | |
| PHYSIOLOGICAL CHARACTERISTICS | : | |

This decision is in response to applicants' submission filed 22 January 2009 which includes a petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.497(d).

## BACKGROUND

On 12 January 2006, applicants filed international application PCT/EP2006/050176, which designated the United States and claimed a priority date of 17 January 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 July 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2007.

On 06 July 2007, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 21 May 2008, applicants filed a submission including a petition/fee for a four-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a petition under 37 CFR 1.47(a), and a petition under 37 CFR 1.497(d).

On 08 July 2008, a decision was issued dismissing without prejudice applicants' petitions under both 37 CFR 1.47(a) and 37 CFR 1.497(d). Regarding the petition under 37 CFR 1.47(a), it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided nor had an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Regarding the petition under 37 CFR 1.497(d), it was noted that if an assignment had been executed, a proper showing under 37 CFR 3.73(b) and the written consent of the assignee were required.

On 08 September 2008, applicants filed a renewed petition under 37 CFR 1.47(a) and a renewed petition under 37 CFR 1.497(d).

On 11 November 2008, a decision was issued dismissing without prejudice applicants' petitions under both 37 CFR 1.47(a) and 37 CFR 1.497(d). Regarding the petition under 37 CFR 1.47(a), it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort still had not been provided. Regarding the petition under 37 CFR 1.497(d), it was noted that the written consent of the assignee was still required.

On 22 January 2009, applicants filed the instant renewed petition under 37 CFR 1.47(a), the instant renewed petition under 37 CFR 1.497(d), and a petition/fee for a one-month extension of time.

## DISCUSSION

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision issued 08 July 2008, items (1) and (3) have been met. As noted in the decision issued 11 November 2008, item (4) has been met as well.

Item (2) has now been met. Documentation of the search results for non-signing inventor Nicola Levandis's address has been provided as well as a first-hand statement of what occurred when Pia Nyholm telephoned what she believes to be Mr. Levandis's mobile phone number.

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92$^{bis}$ subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decisions issued 08 July 2008 and 11 November 2008, items (1) and (2) have been met and item (4) is not required.

Item (3) has now been satisfied. A proper showing under 37 CFR 3.73(b) was provided with the 08 September 2008 submission and the instant submission includes the written consent of the assignee.

*Declaration of Inventors*

As noted in the decision issued 11 November 2008, the explanation of the difference in the spelling of the last name of the sixth inventor between the declaration of inventors (Randlev) and the statement under 37 CFR 1.497(d) (Randloev) is accepted and noted for the record.

## CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **GRANTED**.

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the

accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **08 September 2008** and processing the application in the names of Henrik Bengtsson, Leif Engmann Kristensen, Nicola Levandis, Johannes Jan Struijk, Tommy Le, and Jette Randloev as inventors

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

3 0 MAR 2009

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Nicola Levandis
Hovedgaden 449, 1. Tv
2640 Hedehusene
Denmark

In re Application of
BENGTSSON et al.
Application No.: 11/813,429
PCT No.: PCT/EP2006/050176
Int. Filing Date: 12 January 2006
Priority Date: 17 January 2005
Attorney Docket No.: 6984.204-US
For: FLUID DELIVERY DEVICE WITH INTEGRATED MONITORING OF PHYSIOLOGICAL CHARACTERISTICS

Dear Mr. Levandis:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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Date Mailed: August 29, 2008

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

Applicant: Li et al.
Appl. No.: 11/813,458
Filing Date: July 6, 2007
Title: NON-ANILINIC DERIVATIVES OF ISOTHIAZOL-3(2H)-THIONE 1,1-DIOXIDES AS LIVER X RECEPTOR MODULATORS
Attorney Docket No.: 133087.18101(101614-1PUS)
Pub. No.: US 2008/0139616 A1
Pub. Date: June 12, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 27, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.**

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

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Adjustment date: 08/29/2008  KKING1
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Refund Ref:
08/29/2008            0030060485
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Credit Card Refund Total:      $300.00

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/813,468 | 07/06/2007 | Gregory W. Faris | SRI US-4949-2 | 2728 |

23379 7590 07/26/2010
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

| EXAMINER |
|---|
| YU, MELANIE J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1641 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/26/2010 | 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):

RICHARD@SCI-TECH.COM

Best Available Copy

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JUL 2 6 2010

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

| | | |
|---|---|---|
| In re Application of: FARIS et al. | : | |
| Serial No: 11/813,468 | : | DECISION |
| Filed: July 6, 2007 | : | ON |
| Attorney Docket No: **SRI US-4949-2** | : | PETITION |
| Title: **SURFACE-ENHANCED LANTHANIDE CHELATES** | : | |

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on October 3, 2009.

**BACKGROUND**

This application was filed under 35 U.S.C. 371 and as such is subject to PCT unity of invention practice. The delay in acting upon this petition is regretted.

A revised holding of lack of unity of invention was mailed February 24, 2009. The examiner argued that the claims lacked a special technical feature in view of the disclosure of Morgan et al. (US 7, 332,344). The examiner argues:

> Morgan et al. (7,332,344) teach a lanthanide ion and a chelator chelating the lanthanide ion (col. 19, lines 61-66), wherein the chelate is linked to a noble metal substrate at a proximity wherein the substrate enhances a fluorescent emission of the lanthanide ion (col. 17, lines 11-16 and col. 11, lines 4-10).

Applicant elected Group II, claims 9-15 and the specie: antibody, silver islands, samarium and TTA with traverse in the response filed February 26, 2009 asserting that Morgan et al. did not teach lanthanide chelates meeting the limitations of the claims.

The examiner noted that Morgan et al. taught ytterbium, one of applicant's disclosed embodiments, and that such disclosure met the limitations of applicant's claims.

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Petitioner argues:

> Under 37CFR1.475, Applicants are entitled to have their claimed product and commensurate method claims examined together wherein, as here, the inventions form a single general inventive concept, and the same special technical features are recited in both the product and method claims. Furthermore, these shared, claim-recited technical features distinguish the prior art, as discussed in our Response submitted herewith. Furthermore, all the identified groups have already been examined together in the Written Opinion authored by the present Examiner, with the same art cited, and the same rejection made, against all the claims; hence, there is no undue additional examination or search burden.

**DISCUSSION**

Petitioner's argument concerning the lack of examination and search burden in view of the Written Opinion are noted. However, the determination of lack of unity is made based on the presence or absence of a special technical feature in the claims (37 C.F.R. §1.475(a)) and not on a consideration of examination or search burden.

Petitioner argues:

> Note that to meet the limitations of any of our claims, if the transition has an un-enhanced quantum efficiency of more than 3% (as is typically the case with europium or terbium), then the recited chelator may not photosensitize the lanthanide ion (as it does in the cited art).

Claim1 as originally filed reads:

> 1. (Original) A lanthanide chelate comprising a lanthanide ion and a chelator chelating the lanthanide ion, wherein the chelate is linked to a noble metal substrate at a proximity wherein the substrate enhances a fluorescent emission of the lanthanide ion by at least 20-fold when the chelate is illuminated at an excitation wavelength that induces a transition in the lanthanide ion that results in the fluorescent emission, wherein (a) the chelator does not photosensitize the lanthanide ion, and/or (b) the transition has an un-enhanced quantum efficiency of less than 3%.

The passages from Morgan et al. relied upon by the examiner do not teach either limitation (a) or (b). Morgan is silent as to the interaction of the chelator with the lanthanide as well as the un-enhanced quantum efficiency of the transition.

Based on the arguments of record the examiner has not established that the claims lack a special technical feature.

**DECISION**

The petition is **GRANTED** for the reasons set forth above.

Because the examiner did not establish that the claims lack a special technical feature the holding of lack of unity is withdrawn.

This decision is based on the art (Morgan et al., Geddes et al. and Wagner et al.) and argument of record and in no way prohibits the examiner from setting forth a holding of lack of unity following a consideration of the claims as amended and in view of the prior art.

The case is being returned to the examiner for consideration of applicant's amendment and a consideration of whether the claims as amended have unity of invention.

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.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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AUG 07 2009

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Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

Applicant: Bostrom et al.
Appl. No.: 11/813,481
International Filing Date: January 9, 2006
Title: DERIVATIVES OF ISOTHIAZOL-3(2H)-ONE 1,1-DIOXIDES AS LIVER X RECEPTOR MODULATORS
Attorney Docket No.: 133087.19001(101611-1PUS)
Pub. No.: US 2008/0255122 A1
Pub. Date: October 16, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 3, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in containing various extraneous text; e.g. (Cl,F,I,Br), and "b1", and optical character recognition error in a superscript.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." (Emphasis added) A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The errors due to faulty optical character recognition are, in this case, not Office error. The errors are due to the quality of the text, which is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52(a)(1)(v), which states that all papers that are to become a permanent part of Office records must be presented "in a form having sufficient clarity and contrast between the paper and the writing to permit . . . electronic capture by use of digital imaging and optical character recognition." As set forth at MPEP 1121, "applications with poor quality text, which may be acceptable for scanning and examination purposes, may lead to errors in the patent application

[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).

publication. Correction of these errors and inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR 1.221(a). They will not be corrected by the Office in a corrected publication under 37 CFR 1.221(b)."

With respect to the extraneous text, the errors are not material errors, since the misprints do not alter the meaning of the text in such a manner to 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.

It is further noted that the issue fee for the application has been paid, and the application is now in the publication cycle.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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07 APR 2008

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

| | | |
|---|---|---|
| In re Application of | : | |
| BOWER, et al. | : | |
| Application No.: 11/813,487 | : | |
| PCT No.: PCT/GB05/05029 | : | DECISION ON PETITION |
| Int. Filing Date: 22 December 2005 | : | |
| Priority Date: 23 December 2004 | : | UNDER 37 CFR 1.137(b) |
| Atty. Docket No.: 88966RRS | : | |
| For: CONTROL OF LATTIC SPACING WITHIN CRYSTALS | : | |

The petition to revive under 37 CFR 1.137(b) filed 06 July 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 22 December 2005 under 35 U.S.C. 363 and will be given a date of **06 July 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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JEROME D. JACKSON (JACKSON PATENT LAW OFFICE)
211 N. UNION STREET, SUITE 100
ALEXANDRIA VA 22314

**MAILED**

JUN 18 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Jerome Matzuzzi | : | |
| Application No. 11/813,513 | : | DECISION ON PETITION |
| Filed: May 4, 2008 | : | |
| Attorney Docket No. 185.002 | : | |

This is a decision on the petition, filed February 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed July 24, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 2, 2010.

Petitioner asserts that the non-final Office action dated July 24, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and

referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Item(s) (3) has not been satisfied.

As to item (3), although petitioner has provided an events list and a matter list a master docket has not been provided. Nor has petitioner stated that a master docket does not exist. 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. See MPEP 711.03(c).

Accordingly, absent the required evidence to establish nonreceipt of the Office action of July 24, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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 $1620 or $810 petition fee based on entity status.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas Pauer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7574297 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,527 | : 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 **59** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas Pauer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588016 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,558 | : 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 **140** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

**MAILED**

MAR 13 2009

OFFICE OF PETITIONS

Applicant: Son
Appl. No.: 11/813,564
International Filing Date: January 6, 2006
Title: SCREEN FOR DISPLAY AND MANUFACTURING METHOD THEREOF
Attorney Docket No.: 130814.00801
Pub. No.: US 2008/0123187 A1
Pub. Date: May 29, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 10, 2008, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the title of the invention and the residence of inventor Son are incorrect and the preliminary amendment of July 9, 2007 adding the cross reference section was not published.

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by the requestor regarding the title of the invention and the error in the city of the inventor's residence are not material mistakes which hinder the public from understanding the application. With respect to the residence, the application was published with the residence indicated on the Oath.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the priority data in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a). [2]

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. Applicant did not file a substitute specification, which incorporated the preliminary amendment, nor did applicant file a copy of the application as amended in compliance with the Office electronic filing system requirements.

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

[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

14 JUL 2008

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

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|---|---|
| In re Application of<br>ALVES et al.<br>Serial No.: 11/813,583<br>PCT No.: PCT/EP06/00303<br>Int. Filing Date: 11 January 2006<br>Priority Date: 12 January 2005<br>Attorney's Docket No.: 1418-171<br>For: DEVICE FOR DISTRIBUTING AT LEAST ONE DISPLAYING ACCESSORY ON A GOOD DISPLAY SURFACE | DECISION ON<br>PETITION UNDER<br>37 CFR 1.47(a) |

This is a decision on applicant's "Petition to Proceed under 35 U.S.C. 116 and under 37 CFR 1.47(a)", filed on 29 May 2008 and "Supplement to Petition to Proceed under 35 U.S.C. 116 and Under 37 CFR 1.47(a)", filed on 01 July 2008, in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 09 July 2007, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 29 May 2008, applicant filed a declaration executed by the joint inventor and a petition under 37 CFR 1.47(a) for nonsigning inventor Pedro Cunha.

On 01 July 2008, prior to a USPTO decision on applicant's petition under 37 CFR 1.47(a), applicant filed a "Supplement to Petition to Proceed under 35 U.S.C. 116 and Under 37 CFR 1.47(a)" along with a declaration executed by Pedro Cunha.

## DISCUSSION

Petitioner has now presented the declaration signed by inventor Pedro Cunha. A review of the declarations reveals that the declarations identify and are executed by all the inventors named in the international application. The declarations state the residency, citizenship and mailing address of each inventor.

The petition under 37 CFR 1.47(a) is considered moot as a declaration executed by the previously unavailable inventor has now been submitted. The declarations are acceptable under 37 CFR 1.497(a) and (b).

## CONCLUSION

For the above reasons, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

Applicant's request to withdraw petition under 37 CFR 1.47(a) is Granted.

The declarations executed by the joint inventors and submitted on 29 May 2008 and 01 July 2008, are in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **01 July 2008.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

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TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

| | | |
|---|---|---|
| In re Application of | : | |
| YAMADA, AKITOSHI, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/813,629 | : | PARTICIPATE IN PATENT |
| Filed: July 10, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **00862.116314** | : | 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 20, 2010.

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

2 6 MAR 2008

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

| | | |
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| In re Application of | : | |
| GESCHE | : | |
| Application No.: 11/813,669 | : | DECISION |
| PCT No.: PCT/EP2006/050157 | : | |
| Int. Filing Date: 11 January 2006 | : | |
| Priority Date: 12 January 2005 | : | |
| Attorney Docket No.: 17287.2 | : | |
| For: MICROPLASMA ARRAY | : | |

This decision is in response to applicant's petition to revive under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b), filed 20 December 2007 in the United States Patent and Trademark Office (USPTO).

## BACKGROUND

On 11 January 2006, applicant filed international application PCT/EP2006/050157 which designated the U.S. and claimed a priority date of 12 January 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 20 July 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 July 2007.

On 10 July 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, an authorization to charge the Basic National Fee to Deposit Account 23-3178.

On 06 December 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO 909) indicating that the application was abandoned as to the United States of America for failing to provide the U.S. Basic National Fee by thirty months from the priority date.

On 20 December 2007, applicant filed the instant petition to revive under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b). The petition was accompanied by, *inter alia*, a declaration of facts by Paul Taylor.

## DISCUSSION

Petition Under 37 CFR 1.137(a)

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already 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 this paragraph was unavoidable; and (4) A terminal disclaimer (if necessary).

Items (1) and (2) have been satisfied. Item (4) is not required.

Item (3) has not been met. As noted in the declaration of Paul Taylor, the person signing the authorization to charge additional fees filed 10 July 2007 was mistakenly left off as an authorized user of the Deposit Account. There seems to have been no checks in place to ensure that the person signing was listed as an authorized user. The failure to use checks is less than the care or diligence generally used and observed by careful persons in relation to their most important business.

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(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 was unintentional.

As to item (1), applicant submitted the basic national fee on 20 December 2007.

As to item (2), the petition fee has been charged to Deposit Account 23-3178.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

## CONCLUSION

The petition under 37 CFR 1.137(a) is **DISMISSED** for the reasons set forth above.

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be 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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

4/15/09

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| In re Application of | : | |
| BURTON, DAVID | : | DECISION ON REQUEST TO |
| Application No. 11/813,672 | : | PARTICIPATE IN PATENT |
| Filed: Jul. 10, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. CQ10312 | : | PILOT PROGRAM AND PETITION |
| For: ULTRASOUND DIAGNOSIS AND | : | TO MAKE SPECIAL UNDER |
| TREATMENT APPARATUS | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(d), filed Apr. 10, 2009, to make the above-identified application special.

The request and petition are **dismissed.**

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the IPAU application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU 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 IPAU application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the IPAU examiner in the IPAU 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 met all conditions except Item # 6 above. The request to participate in the PPH pilot program and petition fail to include:

A copy of the IDS listing seven patent publications cited by the Australian examiner along with copies of the cited documents or publications.

It is noted that the Australian examiner has cited WO 20011069283; WO 20011032258; US 6186949; US 5379770; WO 1989/007907; US 3735755 and US 5844140. These patent publications must be listed on an IDS and copies of each patent publications (except US patents).

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.

Accordingly, the petition is dismissed.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Thomas Kaemper, et al. | : | |
| Application No. 11/813,723 | : | NOTICE |
| Filed: July 11, 2007 | : | |
| Attorney Docket No. 20802/0207218-US0 | : | |

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 no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

JUN 29 2009

OFFICE OF PETITIONS

Applicant: Goerne
Appl. No.: 11/813,729
International Filing Date: January 11, 2006.
Title: AGENTS CONTAINING FOLIC ACID, VITAMIN B6 AND VITAMIN B12, AND THE USE THEREOF
Attorney Docket: 311519US0PCT
Pub. No.: US 2008/0139498 A1
Pub. Date: June 12, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 12, 2008, for the above-identified application.

The request is GRANTED.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

0 4 AUG 2008

United States Patent and Trademark Office

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Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

| | | |
|---|---|---|
| In re Application of | : | |
| Endoh et al. | : | |
| Application No.: 11/813,746 | : | |
| PCT No.: PCT/JP2006/323376 | : | |
| Int. Filing Date: 16 November 2006 | : | DECISION |
| Priority Date: 17 November 2005 | : | |
| Attorney Docket No.: 09792909-6820 | : | |
| For: Record Medium, Its Manufacturing | : | |
| Method, Mother Disc For Record Medium, | : | |
| And Its Manufacturing Method | : | |

This is in response to the petition under 37 CFR 1.182 filed on 16 June 2008.

## BACKGROUND

International application PCT/JP2006/323376 was filed on 16 November 2006, claimed an earliest priority date of 17 November 2005, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 24 May 2007. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 17 May 2008. On 11 July 2007, applicants filed *inter alia* the basic national fee.

## DISCUSSION

Petitioner states, in part, that "the entry keyed into EFS-WEB inadvertently and incorrectly identified the international application as PCT/JP2006/323367. The correct number is PCT/JP2006/323376. The last two digits were inadvertently, and without deceptive intent, transposed in the EFS-WEB data entry screen." Inspection of the Electronic Acknowledgment Receipt dated 11 July 2007 confirms petitioner's statement that PCT/JP2006/323367 was entered into EFS-WEB. Meanwhile, review of the remaining documents of record reveals that, e.g., the executed declaration and the ADS filed on 11 July 2007 referred to PCT/JP2006/323376. Based on the totality of the circumstances present in this case, it would be appropriate to accept petitioner's statement to the effect that this application was intended as the national stage entry under 35 U.S.C. 371 of PCT/JP2006/323376, rather than PCT/JP2006/323367 as erroneously recorded in EFS-WEB.

Petitioner "views this request for and need for this petition as out of the ordinary," noting that the discrepancy in question arose from a typographical error. Petitioner further states that "The $400 petition fee is unduly high and wrong given the nature of the error, the ease with which the error was noted and could have been corrected by the Patent office itself, and indeed is unprecedented in petitioner's counsel's view. Accordingly, petitioner hereby requests a refund or waiver of the fee." In response, petitioner is respectfully advised that it is established USPTO

policy to treat fact situations of the kind presented here under 37 CFR 1.182, which is the proper regulation under which "questions not specifically provided for" may be treated on petition. The current $400.00 petition fee applies to all petition matters considered under 37 CFR 1.182, so it is not unusual or unprecedented. Petitioner notes that the discrepancy could have been corrected by the USPTO, but the Office relies upon applicants' exercise of due care in identifying the international application which is to enter the national stage under 35 U.S.C. 371. Where applicants' error results in a misidentification, correction of the matter requires the expenditure of meaningful time and resources on the part of the Office. Therefore, this situation does not appear to warrant a waiver or refund of the petition fee. In the event that petitioner requests further consideration of the refund/waiver issue, a formal petition under 37 CFR 1.183 would be appropriate.

It is noted that the declaration filed on 11 July 2007 is defective because it does not identify the citizenship of Hiroyuki Takemoto.

## DECISION

The petition under 37 CFR 1.182 is **GRANTED** as described above.

This application is being returned to the Office of Patent Application Processing for further processing as the national stage under 35 U.S.C. 371 of PCT/JP2006/323376. This processing will include the correction of the electronic records of the USPTO to show this application as the national stage of PCT/JP2006/323376. Said processing will also include the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), as well as the surcharge under 37 CFR 1.492(h).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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200 GILLINGHAM LANE, MD-2
SUGAR LAND, TX 77478

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Joseph Varkey | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586042 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,755 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/13/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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SCHLUMBERGER TECHNOLOGY CORPORATION - HCS
200 GILLINGHAM LANE, MD-2
SUGAR LAND, TX 77478

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Joseph Varkey | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586042 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/813,755 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 03/13/2008 | : 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.

Re Submission

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 1/21/09

TO SPE OF ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/813760 Patent No.: 7452076B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

/Ricky Mack/
**SPE**

2873
**Art Unit**

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19 DEC 2008

Texas Instrument Incorporated
PO Box 655474, MS 3999
Dallas, Texas 75265

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| In re Application of: KASHIMA, Shunji<br>Application No.: 11/813,762<br>PCT No.: PCT/J05/00599<br>Int. Filing Date: 19 January 2005<br>Priority Date: 20 January 2004<br>Attorney Docket No.: TI-37519<br>For: ELECTRONIC ENDOSCOPE AND ENDOSCOPE SYSTEM USING SAME | DECISION ON PETITION UNDER 37 CFR 1.137(b) |

This decision is issued in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a)" filed 11 July 2008 and applicant's "Supplement to Petition for Revival (37 CFR 37 CFR 1.137(b))" filed 11 December 2008.

Per applicant's statement in the "Supplement to Petition for Revival (37 CFR 37 CFR 1.137(b))," applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a)" filed 11 July 2008 will be treated under 37 CFR 1.137(b).

The petition to revive under 37 CFR 1.137(b) is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony R

Anthony Smith
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0 1 FEB 2008

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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| In re Application of WHITING et al.<br>Application No.: 11/813,763<br>PCT No.: PCT/US05/45883<br>Int. Filing: 15 December 2005<br>Priority Date: 23 December 2004<br>Attorney Docket No.:056369-1451<br>For: THERAPEUTIC COMPOSITIONS FOR INTRANASAL ADMINISTRATION OF KETOROLAC | DECISION ON<br>PETITION TO REVIVE<br>UNDER 37 CFR 1.137(b) |

The petition to revive under 37 CFR 1.137(b) filed 11 July 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of this grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $150 has now been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

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0 7 MAR 2008

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick New Jersey 08933-7003

In re Application of
HEERES et al.
Application No.: 11/813,772
PCT No.: PCT/EP06/50490
Int. Filing Date: 27 January 2006
Priority Date: 27 January 2005
Attorney Docket No.: TIP-0088-USPCT
For: HIV INHIBITING 2-(4-CYANOPHENYLAMINO) PYRIMIDINE DERIVATIVES

DECISION ON PETITION

This decision is issued in response to the declaration submitted on 12 July 2007 which is being treated as a Request under 37 CFR 1.42.

## BACKGROUND

On 27 January 2006, applicants filed international application PCT/EP06/50490, which claimed a priority date of 27 January 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 27 July 2007.

On 12 July 2007, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; a copy of the international application; and a declaration executed by the four joint-inventors and Frank Xavier Jozef Herwig Arts on behalf of deceased inventor Paul Adriaan Jan Janssen.

## DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 12 July 2007 was executed by Frank Xavier Jozef Herwig Arts as "estate executor for heirs and heiresses" to the deceased inventor, Paul

Adriaan Jan Janssen. The declaration is executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide the citizenship, residence, and mailing address of the legal representative (executor). The declaration filed on 12 July 2007 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the executor or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

## CONCLUSION

The submission under 37 CFR 1.42 is **REFUSED**.

Applicants have **TWO (2) MONTHS** from the mailing date of this Decision to submit a proper response under 37 CFR 1.42. Failure to provide a proper and timely response will result in abandonment. A proper response must include an acceptable declaration executed by either the legal representative (executor) of the deceased inventor or, if no legal representative has been appointed, all of the deceased inventor's heirs. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, 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.

Anthony Smith

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Office of PCT Legal Administration
Tel: (571) 272-3298
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2 9 AUG 2008

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Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick New Jersey 08933-7003

In re Application of
HEERES et al. :
Application No.: 11/813,772 :
PCT No.: PCT/EP06/50490 : DECISION ON PETITION
Int. Filing Date: 27 January 2006 :
Priority Date: 27 January 2005 :
Attorney Docket No.: TIP-0088-USPCT :
For: HIV INHIBITING :
2-(4-CYANOPHENYLAMINO)
PYRIMIDINE DERIVATIVES

In a communication (Decision on Petition) mailed by this Office on 07 March 2008, the declaration filed by applicant on behalf of deceased inventor Paul Adriaan Jan Janssen was dismissed for failure to include all the information required under 37 CFR 1.497. (The declaration did not include the country of citizenship for the deceased inventor.)

On 20 June 2008, applicant filed a response to the previous communication that was accompanied by a revised declaration. The declaration submitted on 20 June 2008 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Frank Xavier Jozef Herwig Arts as "executor," states his/her relationship to the deceased (i.e., executor), and provides the executor's country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

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1 1 SEP 2009

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

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| In re Application of | : | |
| LECLERC et al. | : | |
| Application No.: 11/813,789 | : | |
| PCT No.: PCT/US2006/003723 | : | |
| Int. Filing Date: 02 February 2006 | : | DECISION |
| Priority Date: 04 February 2005 | : | |
| Attorney Docket No.: 28216/40827A | : | |
| For: EXTENDED DELIVERY OF | : | |
| INGREDIENTS FROM A FABRIC SOFTENER | : | |
| COMPOSITION | : | |

This decision is in response to applicants' petition under 37 CFR 1.182 filed in the USPTO on 14 May 2009.

## BACKGROUND

On 02 February 2006, applicants filed international application PCT/US2006/003723 which designated the United States and claimed a priority date of 04 February 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 August 2007.

On 12 July 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 March 2009, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 May 2009, applicants filed a submission including, *inter alia*, a declaration of inventors and the instant petition under 37 CFR 1.182. The petition was accompanied by an affidavit of Melanie Jane Hughes.

## DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. The petition must include (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. MPEP § 605.04(c).

As to item (1), the petition fee has been paid.

With regard to item (2), the affidavit of Melanie Jane Hughes is an affidavit setting forth both names (Melanie Jane Wintle and Melanie Jane Hughes) and the procedure (marriage) whereby the change of name was effected. The affidavit is accepted.

Declaration of Inventors

The declaration of inventors filed 14 May 2009 is in compliance with 37 CFR 1.497(a)-(b).

## CONCLUSION

For the reasons set forth above, the 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 continue national stage processing of the application.

/Daniel Stemmer/

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Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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2 6 MAY 2009

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER NH 03101

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| In re Application of<br>KIKUCHI et al.<br>Application No.: **11/813,813**<br>Filing Date: 12 July 2007<br>Attorney Docket No.: SIP029<br>For: SPUTTERING SYSTEM AND FILM-FORMING METHOD | : | DECISION |

This decision is in response to applicant's request to correct electronic filing receipt or petition under 37 CFR 1.182 to correct electronic filing receipt filed on 27 March 2009 in the United States Patent and Trademark Office.

On 12 July 2007, applicant filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the U.S. Basic National Fee. The papers were assigned serial number **11/813,813**. However the international application PCT/JP06/**300458** as indicated on the electronic acknowledgement receipt differs from the PCT application number PCT/JP06/**300548** on the transmittal letter and application data sheet submitted.

On 18 March 2009, a communication was mailed to applicant indicating that there was a discrepancy between the PCT application number on the electronic acknowledgement receipt and transmittal letter. Applicant was advised to file a petition under 37 CFR 1.182 to correct the international application number.

On 27 March 2009, applicant filed the instant response. Applicant acknowledges that the electronic filing receipt did not bear the correct PCT international application, but argues that this is a minor correction. Applicant entered the incorrect International application number electronically creating the electronic record for that international application number. The incorrect number appears in the USPTO PALM system and must be corrected. As advised, applicant requested the correction of the international application number pursuant to a petition under 37 CFR 1.182.

Applicant's petition under 37 CFR 1.182 to correct the international application no. to **PCT/JP06/300548** on the national stage papers filed on 12 July 2007 is **GRANTED.** The $400 petition fee will be charged to applicant's deposit account per his authorization.

The USPTO records will identify the present application 11/813,813 as the national stage of **PCTJP06/300548**.

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