UNITED STATES PATENT AND TRADEMARK OFFICE

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

**COPY MAILED**

AUG 14 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Nosa Omoigui | : | |
| Application Number: 11/829880 | : | ON PETITION |
| Filing Date: 07/27/2007 | : | |
| Attorney Docket Number: NERV-1-1020 | : | |

This is a decision on the petition filed on June 23, 2008, under 37 CFR 1.137(a),[1] 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

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or, as discussed below, "Petition under 37 CFR 1.137(b)."

The application became abandoned on October 14, 2007, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on August 13, 2007, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 23, 2008.

Petitioner's registered patent practitioner, Wendy M. Gombert, states, in pertinent part:

> An investigation revealed the following:
>
> | | |
> |---|---|
> | 7/27/2007 | Application was originally filed with the U.S. Patent Office under docket number NERV-I-1019 and assigned U.S. Patent Application Serial No. 11/829,878; |
> | 7/27/2007 | The corrected Application was re-filed that same evening with the U.S. Patent Office under docket number NERV-1-1020 and assigned U.S. Patent Application Serial No. 11/829,880; |
> | 8/13/2007 | Received Notice to File Missing Parts for incorrect Docket Number NERV-1-1019 (relating to the previously abandoned application) with the correct Serial Number. The docketed dates were incorrectly entered into the docket for NERV-I-1019. |
> | 9/19/2007 | Paralegal instructed docketing to dedocket the dates relating to Missing Parts on the abandoned application |
> | 10/27/2007 | Docket report shows "Filing Receipt Received" dates "moved forward" from October 27, 2007 to November 15, 2007; from December 27, 2007 to January 2, 2008; from February 27, 2008 to March 17, 2008; |

| | |
|---|---|
| 2/5/2008 | Paralegal logs on to PAIR to check status of application for U.S. Patent Application Serial No. 11/829,880 and confirms docket number was changed to NERV-I-1020 and sends confirmation email to docketing department regarding same; |
| 4/23/2008 | Received Notice of Abandonment from U.S. Patent Office, investigation begins |

> As can be seen from the timeline, neither we nor Applicant intended to abandon the application. Because the abandonment of the application was not deliberate on our part and resulted in spite of the use of reasonable docketing procedures and backup docketing procedures, and because our paralegal made an unforeseen error in dedocketing the case, Applicant respectfully requests the option of reviving the application for further prosecution by submitting the Response to Notice to File Missing Parts, related documentation and requisite fees according to 37 C.F.R. § 1.17(1).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

[2] 35 U.S.C. § 133.

unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

A delay resulting from an error (*e.g.*, a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[5]

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

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[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

[5] See MPEP 711.03(c)(III)(C)(2).

(B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(C) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The present petition lacks the showing required by (1), (2), and (3) above.

At the outset, it is noted that petitioners have not provided statements from all of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Specifically, petitioners have not provided a statement from counsel's paralegal, Myla Kent, or any other paralegals or assistants who may have had first-hand knowledge of the circumstances surrounding the delay. Additionally, petitioners should explain who, if anyone, other than Ms. Kent, was involved in the docketing of notices received from the USPTO for this application, and provide statements from that person as well.

As stated above, petitioners must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

Further, petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Most importantly, petitioners have not explained where the error was made. The petition states that on 9/19/07, "paralegal

instructed docketing to dedocket the dates relating to Missing Parts on the abandoned application." However, the last full paragraph of the "Statement of Fact" as quoted above states "our paralegal made an unforeseen error in dedocketing the case." Accordingly, it is unclear whether the error was made by the paralegal or by another person involved with the docketing system. Petitioners must explain who made the error, and provide a statement of facts with first-hand knowledge from that person.

In summary, the showing of record is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioners have not shown that they exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.[6]

It is noted that petitioner requests, in the last line of the "Statement of Fact" that the application be revived, in the alternative, "according to 37 C.F.R. § 1.17(m)." As 37 CFR 1.17(m) specifies the fee for a petition to revive under 37 CFR 1.137(b), it appears that petitioner may have intended to file a petition under 37 CFR 1.137(b). As such, petitioner should follow the below instructions if the filing of a petition under 37 CFR 1.137(b) is desired.

**ALTERNATIVE VENUE**

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides 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 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 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication

[6] See note 3, supra.

fee, the required reply must include payment of the publication fee.

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[7] The three (3)-month extension request filed on June 23, 2008, was submitted more than five (5) months after the end of the period for reply to the Notice to File Missing Parts of Nonprovisional Application mailed on August 13, 2007, and therefore is unnecessary. The extension of time fee paid on June 23, 2008, will be credited to counsel's deposit account as authorized.

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

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

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

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[7] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Form PTO/SB/64

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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



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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

**WARNING:**

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

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |
| Address | Telephone Number |
| Address | |

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

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

I hereby certify that this correspondence is being:

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

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

| | |
|---|---|
| Date | Signature |
| | Typed or printed name of person signing certificate |

# Privacy Act Statement

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

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

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

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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**OFFICE OF PETITIONS**

In re Application of :
Nosa Omoigui :
Application Number: 11/829880 :
Filing Date: 07/27/2007 :
Attorney Docket Number: NERV-1-1020 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 14, 2007, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on August 13, 2007, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 23, 2008. The petition under 37 CFR 1.137(a) filed on June 23, 2008, was dismissed on August 14, 2008.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

Receipt of the declaration under 37 CFR 1.63, surcharge, and replacement drawings filed with the subject petition is acknowledged.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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**JUNEAU PARTNERS**
**P.O. BOX 2516**
**ALEXANDRIA VA 22301**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frank Turano | : | |
| Application No. 11/829,898 | : | DECISION ON PETITION |
| Filed: July 28, 2007 | : | |
| Attorney Docket No. GWU-Turano-001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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 July 17, 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 September 18, 2008. A Notice of Abandonment was mailed March 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Replacement drawings, a Sequence Listing, the Oath or Declaration, the $65.00 surcharge fee, the Search fee of $270.00, the Examination fee of $110.00, the additional independent claims fee of $220.00, and the additional claims fee of $598.00, (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. Further, 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. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will 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
Petitioner Examiner
Office of Petitions

cc: Peter S. Weissman
Blank Rome LLP
600 New Hampshire Ave., NW
Washington, DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Michael R. Schramm**
**350 West 2000 South**
**Perry UT 84302**

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JAN 25 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Margaret K. Smith | : | DECISION ON PETITION |
| Application No. 11/829,909 | : | TO WITHDRAW |
| Filed: July 29, 2007 | : | FROM RECORD |
| Attorney Docket No. SMT-001U | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 1, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on December 1, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with items (1) and (2) of the above certifications.

Additionally, a grantable request to withdraw as attorney/agent of record must 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 Michael R. Schramm on behalf of all attorneys of record associated with Customer Number 52966. However, since the practitioners were not

appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Currently, there is an outstanding Office action mailed September 8, 2009 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE
# CERTIFICATE OF CORRECTION

**PATENT NO.**: 7555332



**DATED**: June 30, 2009

**INVENTOR(S)**: Rice et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Specification;

col. 4, line 23: "flourophores" -- has been changed to -- "fluorophores" --.

col. 4, line 23: "A flourophore" -- has been changed to -- "A fluorophore" --.

col. 20, lines 29 - 30: "mu(eff) = sqrt(3mu(A) (mu(A) + mu(S)) (13)" -- has been changed to -- "mu(eff) = [3mu(A) (mu(A) + mu(S)] (13)" --.

/VANI GUPTA/
Examiner.Art Unit 3768

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20100407

**DATE** : April 09, 2010

**TO SPE OF** : ART UNIT 3768

**SUBJECT** : Request for Certificate of Correction on Patent No.:

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

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

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

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

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

**Comments:**

/LONG V LE/
Supervisory Patent Examiner.Art Unit 3768

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**PEARL COHEN ZEDEK LATZER, LLP**
**1500 BROADWAY**
**12TH FLOOR**
**NEW YORK NY 10036**

**COPY MAILED**

MAR 1 2 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lotem et al. | : | |
| Application No. 11/829,980 | : | ON PETITION |
| Filed: July 30, 2007 | : | |
| Attorney Docket No. 3034/04-US | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration (previously submitted on September 16, 2007), the late surcharge and additional claim fees (both previously submitted on April 9, 2008), (2) the petition fee, and (3) a proper statement of unintentional delay.

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 request to change the address of record should be filed. 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) 272-3206.

This matter is being referred to the Office of Patent Application Processing for further processing. Thereafter, the application will be referred to Technology Center AU 1624 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

OREN RECHES
211 NORTH UNION STREET, SUITE 100
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**PAPER NO.:**

**DATE** : 6/24/10

**TO SPE OF** : ART UNIT: 3714 Attn: SUHOL DMITRY (SPE)

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/830044 Patent No.: 7713124

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (CofC)**
**Randolph Square Building (RSQ)**
**2800 South Randolph Street, Suite 9XXXX**
**Arlington, VA 22206**
**PALM Location 7580**

**Tasneem Siddiqui**

**Certificates of Correction Branch**
**703-756-1593**

**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:** _____

**SPE** — **3714 Art Unit**

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Richard C. FOSS | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636880 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,077 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **325** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

Mail Date: 07/01/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Martindale | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591253 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/830,097 | : OF WYETH |
| **Filed** | : 07/30/2007 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/830,165 | 07/30/2007 | Kyu-min CHOE | Q102312 | 2399 |

7590 04/30/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| LEE, Y MY QUACH |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2885 | |

| 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/01/2009 NFARMER
07/30/2007 INTEFSW 00006621 194880 11830165
02 FC:1111 500.00 CR
04 FC:1202 1350.00 CR



FORM PET651G (Rev. 08/07)

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**OFFICE OF PETITIONS**

**K&L GATES LLP**
**P.O. BOX 1135**
**CHICAGO IL 60690**

In re Application of
Baerlocher et al.
Application No. 11/830,183
Filed: July 30, 2007
Attorney Docket No. 112300-4404

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/826,872, filed September 25, 2006, as set forth in the concurrently filed amendment and the Application Data Sheet (ADS) filed April 2, 2009.

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 intermediate nonprovisional application, Application No. 11/759,035, was filed on June 6, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/826,872, which was filed on September 25, 2006, 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 and in an ADS.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the

> same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

However, in view of that fact that a proper ADS was also filed with the instant petition and on April 2, 2009, the instant petition satisfies the conditions of 37 CFR 1.78(a)(6). Accordingly, the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/826,872 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 the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3714 for appropriate action on the amendment submitted February 2, 2009 and March 16, 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. 60/826,872.

Liana Walsh

Liana Walsh
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 |
|---|---|---|---|---|---|---|
| 11/830,183 | 07/30/2007 | 3714 | 1680 | 112300-4404 | 1 | 1 |

**CONFIRMATION NO. 2426**

**CORRECTED FILING RECEIPT**

29159
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

*OC000000035625757*

Date Mailed: 04/23/2009

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

**Applicant(s)**

Anthony J. Baerlocher, Reno, NV;
Alexander Casey Naglestad Cohen, Reno, NV;
Tonja Marie Ferry, Reno, NV;
Adam Koby, Reno, NV;

**Assignment For Published Patent Application**

IGT, Reno, NV

**Power of Attorney:** The patent practitioners associated with Customer Number 29159

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/759,035 06/06/2007
which claims benefit of 60/804,399 06/09/2006
and claims benefit of 60/826,872 09/25/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,183**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

GAMING SYSTEM AND METHOD FOR ENABLING A PLAYER TO SELECT PROGRESSIVE AWARDS TO TRY FOR AND CHANCES OF WINNING PROGRESSIVE AWARDS

**Preliminary Class**

463

## 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**

In re Application of
Anthony J. Baerlocher et al.
Application No. 11/830,190
Filed: July 30, 2007
Attorney Docket No. **112300-4405**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the "PETITION FOR AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 C.F.R. § 1.78(a)(6)" filed February 2, 2009 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/826,872 filed September 25, 2006 as set forth in the concurrently filed amendment and Application Data Sheet (ADS).

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.

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)(iii). 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.

A review of intermediate application 11/759,046 filed June 6, 2007 reveals that the application also did not actually include a proper benefit claim to earlier filed provisional

application 60/826,872. However, a petition under 37 CFR 1.78(a)(6) submitted February 2, 2009 was granted in a decision mailed March 2, 2009.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The specification provided on filing did not incorporate by reference provisional application no. 60/826,872 as does the amendment filed.

Furthermore, the ADS does not include the application number for the instant application in the space provided for the Domestic Priority Information.

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76, and filling in the first box of the priority claim with the application for the instant application) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300

ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

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APR 28 2009

OFFICE OF PETITIONS

In re Application of
Anthony J. Baerlocher et al.
Application No. 11/830,190
Filed: July 30, 2007
Attorney Docket No. **112300-4405**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE DECISION ON THE PETITION FOR AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 C.F.R. § 1.78(a)(6)" filed April 2, 2009 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/826,872 filed September 25, 2006 as set forth in the supplemental amendment filed March 16, 2009 and the concurrently filed Supplemental Application Data Sheet.

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.

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)(iii). 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.

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 in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

This pending nonprovisional application was filed on July 30, 2007, within twelve months of the filing date of prior-filed provisional application, 60/826,872 filed September 25, 2006 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 and in a Supplemental Application Data Sheet.

A review of intermediate application 11/759,046 filed June 6, 2007 reveals that the application also did not actually include a proper benefit claim to earlier filed provisional application 60/826,872. However, a petition under 37 CFR 1.78(a)(6) submitted February 2, 2009 was granted in a decision mailed March 2, 2009.

***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.

The fee for an unintentionally delayed claim of priority in the amount of $1,410.00 was paid with the petition filed February 2, 2009 and there is no need for any additional fees.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 AU 3714 for appropriate action on the amendment submitted March 16, 2009, including 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 |
|---|---|---|---|---|---|---|
| 11/830,190 | 07/30/2007 | 3714 | 1680 | 112300-4405 | 1 | 1 |

**CONFIRMATION NO. 2436**

**CORRECTED FILING RECEIPT**

29159
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

*OC000000034802858*

Date Mailed: 04/20/2009

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)**

Anthony J. Baerlocher, Reno, NV;
Alexander Casey Naglestad Cohen, Reno, NV;
Tonja Marie Ferry, Reno, NV;
Adam Koby, Reno, NV;

**Assignment For Published Patent Application**

IGT, Reno, NV

**Power of Attorney:** The patent practitioners associated with Customer Number 29159

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/759,046 06/06/2007
which claims benefit of 60/804,399 06/09/2006
and claims benefit of 60/826,872 09/25/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,190**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

GAMING SYSTEM AND METHOD FOR ENABLING A PLAYER TO SELECT PROGRESSIVE AWARDS TO TRY FOR AND CHANCES OF WINNING PROGRESSIVE AWARDS

**Preliminary Class**

463

## 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. |
|---|---|---|---|---|
| 11/830,191 | 07/30/2007 | Young-chan KIM | Q102255 | 2437 |

7590 04/30/2009
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WASHINGTON, DC 20037

| EXAMINER |
|---|
| TRUONG, BAO Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2875 | |

| MAIL DATE | DELIVERY MODE |
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| 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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/01/2009 NFARMER
07/30/2007 INTEFSW 00006850 194880 11830191
02 FC:1111 500.00 CR
04 FC:1202 1150.00 CR
05 FC:1201 200.00 CR



FORM PET651G (Rev. 08/07)

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MAILED

AUG 30 2007

Technology Center 2100

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

| | |
|---|---|
| In re Application of: Lubbers et al.<br>Serial No.: 11/830,201<br>Filed: July 30, 2007<br>Docket: STL13492<br>Title: PROCESSOR PARTNERING IN A STORAGE SYSTEM | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the petition filed on July 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

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

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and item II.5 above, the petition does not include a statement made based on a good faith belief, that a preexamination search in compliance with the above requirements, was conducted.

Regarding item II.5.1 above, for database searches ( US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec), the search logic used as a query and the name(s) of the file(s) searched and the database service are required. Petitioner only indicates that a search was performed in these databases. If a Boolean text search was performed in a U. S. Patent database, petitioner is requested to provide the search logic used as a query. In addition, the date of search must be provided for each database searched. Further, the class/subclass searched does not seem to cover the claimed invention. The claims seem to be drawn to Input/Output Command processing, and hence **Class 710: ELECTRICAL COMPUTERS AND DIGITAL DATA PROCESSING SYSTEMS: INPUT/OUTPUT** should have been included in the search.

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

Additionally, the "Identification of the Limitations of the claims Disclosed by the Disclosed references" and the "Explanation of Patentability" sections in the Examination Support Document indicate that the only reference that was cited to be most closely related to the claimed invention discloses none of the features of the claimed invention. For instance, Applicant states with respect to claim 1 "Claim 1 is not anticipated by Horn '297 at least because Horn '297 does not disclose a storage system performing a storage transaction associated with a network I/O command with the ASIC interconnecting the plurality of function controllers to a policy processor via a list manager in the ASIC communicating on a peripheral device bus to which the policy processor is connected.". However, the search logic does not indicate that these limitations have been searched. The same is true for claim 11 for instance. Again with respect to claim 11, for instance,

[1] MPEP 8th ed. rev 5 August 2006

applicant states "Claim 11 is not anticipated by Horn '297 at least because Horn '297does not disclose posting a command associated with the access command by the host exchange function controller to a policy processor via a list manager in the ASIC and a peripheral device bus to which the policy processor is connected, and decoding the command with the policy processor.". However, search logic does not reflect these features having been searched. Further, applicant does not show how/where the rest of the limitations for these claims are met by the Horn reference. Thus it is unclear whether the search included any of the features recited in any of the claims. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc. Finally, based upon the claimed subject matter of the instant application, a search in class 710 is recommended in order to provide full coverage of where the most pertinent references are most likely to be found.

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

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

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, petitioner does not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references. An explanation furthermore needs to be made to specify whether the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. The USPTO website has an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

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

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

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, the instant application **has been amended to include the benefit of continuity in part under title 35, United States Code 120 to the following application: 11/144,468, however, a new Accelerated Examination Support Document has not been submitted to support this amendment. Applicant is required to provide a new AESD either (a) stating that no claims are relying on the new benefit for prioity or (b) including a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification for this application. The Petitioner should review the applications based on which priority is claimed, point out any differences and show the exact locations (e.g. page no. or paragraph no.) within the specification of the priority document providing support under 35 USC, first paragraph for each limitation of the instant claims.** If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph. Section (II) 6.5 above requires that petitioner must include a showing ***where*** each limitation of the claims find support in each such application in which such supports exist.

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

DECISION

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

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

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

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

Karen Cha

for Mano Padmanabhan
WQAS Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/830,201 | 07/30/2007 | Clark Edward Lubbers | STL13492 | 2456 |

71222 7590 10/23/2007
MCCARTHY & ASSOCIATES
500 WEST MAIN , STREET , SUITE 609
OKLAHOMA CITY, OK 73102

| EXAMINER |
|---|
| HUYNH, KIM NGOC |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2182 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/23/2007 | PAPER |

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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OCT 23 2007

Technology Center 2100

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

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|---|---|
| In re Application of: Lubbers et al.<br>Serial No.: 11/830,201<br>Filed: June 30, 2007<br>Docket: STL13492<br>Title: PROCESSOR PARTNERING IN A STORAGE SYSTEM | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the renewed petition filed on October 1, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

A petition to make special was filed in the above-identified application under 37 CFR 1.102(d) on July 30, 2007. That petition was dismissed in a decision mailed on August 30, 2007 wherein a non-extendible period of 1 (one) month or 30 (thirty) days, whichever was longer, was set to request reconsideration.

The reasons for the dismissal were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.1 and II.5.2, II.6.2, II 6.3, II.6.4, **II 6.5,** and II.6.6.

The Renewed Petition, while complying with the requirements of conditions II.5, II 6.3, II.6.4 and II.6.6, is still found to be deficient with respect to conditions II.5.1 and II.5.2, II.6.2, and II 6.5.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and **item 6.5**, applicants were notified in the petition dismissal mailed on August 30, 2007 **that "Applicant is required to provide a new AESD either (a) stating that no claims are relying on the new benefit for priority or (b) including a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification for this application. The Petitioner should review the applications based on which priority is claimed, point out any differences and show the exact locations (e.g. page no. or paragraph no.) within the specification of the priority document providing support under 35 USC, first paragraph for**

**each limitation of the instant claims**.....Section (II) 6.5 above requires that petitioner must include a showing where each limitation of the claims find support in each such application in which such supports exist.". However, the new AESD filed with the renewed petition has not addressed this deficiency at all. There is no statement that no claims are relying on the priority document for priority, nor has the applicant provided a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification for the priority document, application serial number 11/144,468.

Additionally, regarding **item II.5.1**, for database searches ( US Patents/Apps: Foreign Patents/Apps: WIPO), applicants state that all references were considered in each class/subclass at least by title. However, it is not clear from this statement to what extent the full disclosure of each of the documents were considered in each of the class/subclass searched, so as to effect a search encompassing all of the features of the claims, given their broadest interpretation, as required. Additionally, it was suggested that Class 710: ELECTRICAL COMPUTERS AND DIGITAL DATA PROCESSING SYSTEMS: INPUT/OUTPUT should have been included in the search. Applicant argues that class 710 is not required to be searched for the claimed invention. However, the fact that the application is classified in class 710/005 is evidence enough that relevant subclasses in class 710 should have been searched.

With respect to **item II.5.2**, for database searches ( US Patents/Apps: USPTOPatFT, USPTOAppFt, Foreign Patents/Apps: WIPO, JPO, KIPO, EPO, and Non-Patent Literature: ACM Digital Library, IEEE Xplore, hlspec) petitioner was notified that petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Applicant states in the Explanation of Patentability section that "the cited references do not disclose **a storage system having an ASIC with an interconnect selectively coupling a plurality of dedicated purpose function controllers in the ASIC to a policy processor via a list manager in the ASIC communicating on a peripheral device bus to which the policy processor is connected**. Furthermore, as set forth in the "Identification of the Features of the Claims Disclosed by the Disclosed References," each of the **dependent claims** recites additional features not disclosed by the cited references and are therefore **all separately patentable**.

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

(1) "array controller" and ("function$ core" or FCC)

(2) "array controller" and "list manager"

(3) "array controller" and asynchronous and process$

(4) "array controller" and "policy processor"

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the

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

There is no indication in the original petition or the renewed petition that the features of "ASIC with an interconnect selectively coupling a plurality of dedicated purpose function controllers" (as claimed in claim 1, for example), "posting a command associated with the access command by the host exchange function controller to a policy processor" (as claimed in claim 11, for example), "policy processor accessing metadata" (as claimed in claim 12, for example), "ISP or intelligent storage processor ASIC" (as claimed by claim 20, for example) were searched by applicant, nor is there any evidence or statement of record that applicant at least reviewed the documents resulting from the database searches for these features. While applicants have searched for ("function$ core" or FCC), applicants have not searched for, for instance, ("function controllers" or "FC"s or synonyms or variations of these terms and terms like "policy processors" or "list manager" that appear in the claim language.

The terms used in the search logic are seen as individually too broad or too specific, and there is no indication of their being used in any combination similar to that of the claims, and do not provide evidence that the search encompasses a broadest reasonable interpretation of the claims. For instance, a search of the US Patents database by the reviewer provided **39 hits** for the search string " "array controller" and ("function$ core" or FCC) " and **0 hits** for the search string " "array controller" and "list manager" ", and **34 hits** for the search string " "array controller" and "policy processor" ". The other search string listed ""array controller" and asynchronous and process$ " produced **too many truncations** to be able to be effectively searched. The proximity operators used do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document. Furthermore, applicant has chosen not to update the text search indicating that applicant believes the previous search logic to "encompass the claimed subject matter". Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required in the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), and thus the search is seen as still being inadequate.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and **item 6.2**, Applicants were notified that Applicants should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference. A USPTO website link was provided which has an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/. Applicants have responded by stating (on page 4 of Remarks) that " Applicant has in fact mapped the disclosure of the cited references to the extent possible with regard to the recited language of all the claims. Again, Applicant describes relevant disclosure of Horn '297 with respect to the subject matter of claims 1, and 11.". As stated above, applicant is required to provide a claim-by-claim mapping, specifically identifying **each claim limitation** and corresponding disclosure within the reference, citing to specific relevant portions of

each reference, not just claims 1 and 11. For example with respect to claim 20, applicant states "Claim 20 is not anticipated by Horn '297 because it does not disclose any structure capable of maintaining top level control for all I/O transactions by a policy processor peripheral device to the ASIC.". It is not clear whether Horn discloses "an intelligent storage processor (ISP) ASIC having a plurality of dedicated purpose function controllers selectively coupled to a plurality of list managers; ",since applicant is silent with respect to these limitations of claim 20. Furthermore, limitations, such as almost the complete limitations in claim 1, are compared as a whole to the reference. It is not clear if the references teaches a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation.

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

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

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

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

Mano Padmanabhan
WQAS Technology Center 2100

Wendy Garber
Director TC 2100

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

| | |
|---|---|
| In re Application of: Hatasaki, et al.<br>Serial No.: 11/830,207<br>Filed: July 30, 2007<br>Docket: ASA-1219-02<br>Title: FAIL OVER METHOD THROUGH DISK TAKE OVER AND COMPUTER SYSTEM HAVING FAILOVER FUNCTION | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the petition filed on July 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

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

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and item 5.2 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the claims. First, petitioner should identify whether the text search logic used (pages 2-4 of "Pre-Examination Search Statement") was utilized in combination with the identified field of search (i.e. class 714/1, 2, 4, 10, 13 & 32) or separate therefrom (i.e. the identified subclasses were searched in their entirety). Finally, based upon the claimed subject matter of the instant application, a search in the following class and subclasses is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: class 709 [ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: MULTICOMPUTER DATA TRANSFERRING], **subclass 203** [DISTRIBUTED DATA PROCESSING... Client/server] **and subclass 224** [COMPUTER NETWORK MANAGING .. Computer network monitoring]. This additional search area was confirmed with and recommended by a (primary) examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I)(1) and item 6.1 above, Petitioner's citation of references fails to comply with the provisions of 37 CFR 1.98(a)(2), i.e. providing a legible copy of any cited foreign patent. Reference is made to Callahan et al. (WO 03/027903 A1) and Greenspan et al. (WO 04/102535), in which copies of such cited references deemed to be "most closely related" by Petitioner have not reached the file. In addition, note typo regarding the reference to Greenspan et al. misidentified as "WO 03/027903 A1" on page 17 of the instant petition.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Petitioner should ensure that the above discussion is directed to how the language of each of the claims is **specifically** distinguishable and patentable from each of the references provided in requirement (d) above, ***rather than to repeat essentially the entirety of each of the claims***. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Furthermore, it would be difficult to conclude that the pre-examination search was directed to the claimed invention if essentially none of the claimed limitations were found in the prior art deemed "most closely related" by Petitioner. For these reasons, the petition does not meet the requirement of MPEP § 708.02(a).

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

[1] MPEP 8th ed. rev 5 August 2006

must be made to method claim 1). The concise statement of utility in the instant petition refers to both method ***and apparatus*** (note, "apparatus" is not presently claimed).

Thus, the petition does not meet the conditions II. 5.2, 6.1, 6.3 & 6.4 above.

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist, WG 2110
Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/830,207 | 07/30/2007 | Keisuke Hatasaki | ASA-1219-02 | 2465 |

24956 7590 11/01/2007
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| CONTINO, PAUL F |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2114 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/01/2007 | PAPER |

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

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

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10/31/2007

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of:
HATASAKI, et al.
Serial No.: 11/830,207
Filed: July 30, 2007
Docket: ASA-1219-02
Title: FAIL OVER METHOD THROUGH DISK TAKE OVER AND COMPUTER SYSTEM HAVING FAILOVER FUNCTION

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

This is a decision on the renewed petition filed on September 24, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on July 30, 2007 was dismissed in the decision mailed on August 22, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595.

Brian Johnson, WQAS 2110
Technology Center 2100
Computer Architecture, Software and Information Security

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

In re Application of :
Fred S. Azar, et al. :
Application No. 11/830,231 : ON PETITION
Filed: July 30, 2007 :
Attorney Docket No. 2006P23127US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed by April 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed August 13, 2007. The notice set a two-month period to respond and required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d), an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(f). A Notice of Abandonment was mailed on April 3, 2008. On April 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, an executed declaration and the $130 surcharge; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed April 24, 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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**P.O. BOX 1135**
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| | |
|---|---|
| In re Application of | : |
| Anthony J. Baerlocher et al | : |
| Application No. 11/830,242 | : DECISION ON PETITION |
| Filed: July 30, 2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. 112300-4403 | : |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on July 30, 2007. Intermediate Application No. 11/759,035, was filed within twelve months of the filing date of the prior-filed provisional applications and for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title in an application data sheet.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an

application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement for Provisional Application No. 60/826,872 are required.

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

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
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Randolph Building
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Alexandria, VA 22314

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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In re Application of
Anthony J. Baerlocher et al
Application No. 11/830,242
Filed: July 30, 2007
Attorney Docket No. 112300-4403

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to 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 3714 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

**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 |
|---|---|---|---|---|---|---|
| 11/830,242 | 07/30/2007 | 3714 | 1680 | 112300-4403 | 1 | 1 |

**CONFIRMATION NO. 2520**

**CORRECTED FILING RECEIPT**

29159
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

*OC000000035044779*

Date Mailed: 03/18/2009

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

**Applicant(s)**

Anthony J. Baerlocher, Reno, NV;
Alexander Casey Naglestad Cohen, Reno, NV;
Tonja Marie Ferry, Reno, NV;
Adam Koby, Reno, NV;
James Kovacs, Reno, NV;

**Assignment For Published Patent Application**

IGT, Reno, NV

**Power of Attorney:** The patent practitioners associated with Customer Number 29159

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/759,035 06/06/2007
which claims benefit of 60/804,399 06/09/2006
and claims benefit of 60/826,872 09/25/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,242**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

GAMING SYSTEM AND METHOD FOR ENABLING A PLAYER TO SELECT PROGRESSIVE AWARDS TO TRY FOR AND CHANCES OF WINNING PROGRESSIVE AWARDS

**Preliminary Class**

463

## 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. |
|---|---|---|---|---|
| 11/830,321 | 07/30/2007 | Takuji MATSUMOTO | 311895US2DIV | 2630 |

7590 07/02/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| PIZARRO CRESPO, MARCOS D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2814 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/02/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 06/30/2009 BPOWELL
07/31/2007 INTEFSW 00000760 11830321
02 FC:1111 -500.00 OP

Adjustment date: 06/30/2009 BPOWELL
07/31/2007 INTEFSW 00000760 11830321
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

**MAILED**

MAR 03 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Baerlocher et al. | : | |
| Application Number: 11/830322 | : | DECISION ON PETITION |
| Filing or 371(c) Date: 07/30/2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket Number: 112300-4402 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/826,872, filed on September 25, 2006, as set forth in the Application Data Sheet (ADS) filed with the subject petition.

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.

The instant application is a continuation of intermediate Application No. 11/759,046, filed on June 6, 2007, which claims benefit to provisional Application No. 60/826,872, filed on September 25, 2006.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Receipt is additionally acknowledged of the supplemental amendment, filed with the present petition, also containing the delayed claim of benefit to the prior filed application. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, petitioner should file a new amendment, complying with the provisions of 37 CFR 1.121.

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 3714 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 |
|---|---|---|---|---|---|---|
| 11/830,322 | 07/30/2007 | 3714 | 1830 | 112300-4402 | 1 | 1 |

**CONFIRMATION NO. 2631**

**CORRECTED FILING RECEIPT**

29159
BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

*OC000000034714594*

Date Mailed: 03/03/2009

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

**Applicant(s)**

Anthony J. Baerlocher, Reno, NV;
Alexander Casey Naglestad Cohen, Reno, NV;
Tonja Marie Ferry, Reno, NV;
Adam Koby, Reno, NV;

**Assignment For Published Patent Application**

IGT, Reno, NV

**Power of Attorney:** The patent practitioners associated with Customer Number 29159

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/759,046 06/06/2007
which claims benefit of 60/804,399 06/09/2006
and claims benefit of 60/826,872 09/25/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,322**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

GAMING SYSTEM AND METHOD FOR ENABLING A PLAYER TO SELECT PROGRESSIVE AWARDS TO TRY FOR AND CHANCES OF WINNING PROGRESSIVE AWARDS

**Preliminary Class**

463

## 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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Mahamedi Paradice Kreisman LLP (NLMI)
550 South Winchester Blvd.
Suite 605
San Jose, CA 95128

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Pankaj Gupta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610269 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,360 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : 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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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/830,364 | 07/30/2007 | TAKUJI MATSUMOTO | 311887US2DIV | 2700 |

7590 03/23/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| PIZARRO CRESPO, MARCOS D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2814 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/23/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 03/19/2009 BPOWELL
07/31/2007 INTEFSW 00001046 11830364
02 FC:1111 -500.00 OP

Adjustment date: 03/19/2009 BPOWELL
07/31/2007 INTEFSW 00001046 11830364
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Refund Ref:
03/19/2009 0030067922

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Credit Card Refund Total: $500.00

AB Exp..: XXXXXXXXXXX1006

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**MAILED**

JUN 28 2010

**OFFICE OF PETITIONS**

BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA NY 14850-1248

In re Application of :
Roberts, et al. :
Application No. 11/830,372 : ON PETITION
Filed: July 30, 2007 :
Attorney Docket No. **1228P002C (CIP1)**

This is a decision on the petition under 37 CFR 1.182 filed March 23, 2010, to change the order of the inventors cited on this application in USPTO records.

The petition is **granted.**

The order of the inventors is now as follows:

1. Cynthia Roberts
2. James Marous
3. Edwin J. Sarver

A corrected filing receipt is enclosed.

Deposit account 50-1546 will be charged $400.00 for the instant petition fee.

The application file is being directed to the Technology Center GAU 2873 for further review.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: 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 |
|---|---|---|---|---|---|---|
| 11/830,372 | 07/30/2007 | 2873 | 1150 | 1228P002C (CIP1) | 49 | 3 |

**CONFIRMATION NO. 2712**

**CORRECTED FILING RECEIPT**

44564
BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA, NY 14850-1248

*OC000000042089710*

Date Mailed: 06/15/2010

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

**Applicant(s)**

Cynthia Roberts, Columbus, OH;
James Marous, South Vienna, OH;
Edwin J. Sarver, Carbondale, IL;

**Assignment For Published Patent Application**

VISION OPTIMIZATION, LLC, Columbus, OH

**Power of Attorney:** The patent practitioners associated with Customer Number 44564

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/674,985 02/14/2007 ABN
which claims benefit of 60/773,293 02/14/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,372**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

**Title**

CORNEO-SCLERAL TOPOGRAPHY SYSTEM

**Preliminary Class**

351

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : David S. Kloper | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606335 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,390 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **106** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 05/17/2010

**Applicant** : David S. Kloper
**Patent Number** : 7606335
**Issue Date** : 10/20/2009
**Application No** : 11/830,390
**Filed** : 07/30/2007

: 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 **159** 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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FEB 14 2008

**OFFICE OF PETITIONS**

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|---|---|
| In re Application of | : |
| Van Asten, Gommans, and | : |
| Zuetenhorst | : DECISION ON PETITION |
| Application Number: 11/830395 | : UNDER 37 CFR 1.47(a) |
| Filing Date: 07/30/2007 | : |
| Attorney Docket Number: | : |
| 20051834-US-NP XERZ 2 012 | : |

This is in response to the petition under 37 CFR 1.47(a) filed on September 7, 2007.

The petition is **DISMISSED**.

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

The above-identified application was filed on July 30, 2007, with a declaration naming Ronny W.F. van Asten, Theo G.M.J. Gommans, and Tinus Zuetenhorst as joint inventors, signed by joint inventors van Asten and Gommans on behalf of themselves and non-signing joint inventor Zuetenhorst.

Accordingly, on August 14, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the signature of non-signing inventor Zuetenhorst on the oath or declaration filed under 37 CFR 1.63, and a surcharge for its late filing.

In response, on September 7, 2007, the present petition was filed.

Petitioners state that an email copy of the application was sent to the non-signing inventor, but that no response was received.

Petitioners additionally state that a copy of the application was sent to the non-signing inventor's company address, but that the inventor failed to sign and return the declaration. Petitioners have additionally provided a copy of the DHL Waybill, showing that the papers were signed for by "MR POPIN" at the inventor's last known (work) address.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (1).

At the outset, the petition must be dismissed because petitioners have not shown proof that the non-signing inventor acknowledged receipt of the emailed documents and was able to read them. Petitioners are reminded that 37 CFR 1.63 requires the inventor to state that he or she has reviewed and understands the contents of the application.

The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient

there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

Furthermore, the petition must be dismissed because sufficient proof has not been provided that the inventor received the application papers. With regard to the mailing by DHL Express mail, the showing of record is that the papers were not received by the non-signing inventor, but by another individual, and it is unclear whether the non-signing inventor ever received the application.

In this regard, the last known address is that address at which the inventor customarily receives mail.[1] Ordinarily, the last known address will be the last known residence of the non-signing inventor.[2] As the papers were previously sent to the inventor's business address, petitioners may wish to consider sending the papers to the inventor's residence. If the inventor is represented by counsel, the papers may be sent, to the address of the non-signing inventor's attorney.[3]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should

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[1] See MPEP 605.03.

[2] MPEP 409.03(e).

[3] MPEP 409.03(d)(II).

submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**OFFICE OF PETITIONS**

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| In re Application of | : |
| Van Asten, Gommans, and | : DECISION ACCORDING STATUS |
| Zuetenhorst | : UNDER 37 CFR 1.47(a) |
| Application Number: 11/830395 | : |
| Filing Date: 07/30/2007 | : |
| Attorney Docket Number: | : |
| 20051834-US-NP XERZ 2 012 | : |

This is in response to the renewed petition under 37 CFR 1.47(a) filed on April 9, 2008.

The petition is **GRANTED**.

Petitioners have shown, via the statement of registered patent practitioner Ann M. Skerry, that a copy of the application papers were sent by mail to the non-signing inventor's business address and also by email. The non-signing inventor acknowledged receipt by reply email. A follow-up email was then sent, accompanied by a revised the declaration and again asking the inventor to sign the declaration, but no response was received.

Accordingly, the showing of record is that the non-signing inventor, Tinus Zuetenhorst, has constructively refused to sign the declaration naming him as a joint inventor along with Ronny W.F. van Asten and Theo G.M.J. Gommans.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Tinus Zuetenhorst
Ceratizit Nederland, B.V.
Bergrand 224, 4707 AT Roosendaal
Postbus 56, 4700 AB Roosendaal
The Netherlands

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OFFICE OF PETITIONS

In re Application of
Van Asten et al.
Application No. 11/830,395
Filed: July 30, 2007
For: TOOL BIT WITH MULTIPLE CUTTING TIPS

Dear Mr. Zuetenhorst:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FAY SHARPE / XEROX – ROCHESTER
1100 SUPERIOR AVE.
SUITE 700
CLEVELAND OH 44114

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER, CO 80237

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| | | |
|---|---|---|
| In re Application of | : | |
| Sergey V. Sokolovskiy, et al. | : | |
| Application No. 11/830,437 | : | ON PETITION |
| Filed: July 30, 2007 | : | |
| Attorney Docket No.: 50139-00016 | : | |

This is a decision on the petition under 37 CFR 1.182, filed, April 20, 2010, to change the order of the named inventors in the above-identified application. The $400 petition fee has been paid.

The petition is **DISMISSED**.

A grantable petition to change the order of the named inventors must (1) be filed prior to payment of the issue fee, (2) include the requisite petition fee, and (3) be signed by either the attorney or agent of record or all the applicants. Applicants are also encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.

The petition does not comply with item 3 above. In this regard, a review of the record indicates that, while the person signing the petition is a registered practitioner, he is not an attorney or agent of record in this application. Accordingly, the petition under § 1.182 to amend the order of inventors cannot be granted.

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

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

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

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

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

Peter H. Priest
5015 Southpark Drive, Suite 230
Durham, NC 27713

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Edwin Franklin Barry | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7627698 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,448 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**LEVINE BAGADE HAN LLP**
**2400 GENG ROAD, SUITE 120**
**PALO ALTO CA 94303**

**MAILED**

JUN 25 2009

OFFICE OF PETITIONS

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|---|---|
| In re Application of | : |
| Greenhalgh et al. | : |
| Application No. 11/830,482 | : DECISION ON PETITION |
| Filed: July 30, 2007 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. STTMNZ07800 | : UNDER 37 CFR 1.78(a)(6) |

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. To specify the relationship between the applications, applicant must specify whether the application is a continuation, divisional, or continuation-in-part of the prior application. Note that the terms are exclusive. An application cannot be, for example, both a continuation and a divisional or a continuation and a continuation-in-part of the same application. The amendment filed May 4, 2009 states that the relationship between Application Nos. 11/323,640 and 10/847,909 is a

continuation. However, accordingly to USPTO records, the relationship between to the above-identified applications as filed in 11/323,640 is a divisional. Petitioner should clarify which is the proper relationship between the two applications. If the relationship is indeed a continuation, Application No. 11/323,640 should be updated to reflect the proper relationship.

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

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Window located at:<br>U.S. Patent and Trademark Office<br>Customer Service Window Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>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

**LEVINE BAGADE HAN LLP**
**2400 GENG ROAD, SUITE 120**
**PALO ALTO CA 94303**

**COPY MAILED**

AUG 28 2009

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Greenhalgh et al. | : |
| Application No. 11/830,482 | : DECISION GRANTING PETITION |
| Filed: July 30, 2007 | : UNDER 37 CFR 1.78(a)(3) AND |
| Attorney Docket No. SPTRNZ00400 | : UNDER 37 CFR 1.78(a)(6) |

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Amendment and Application Data Sheet (ADS).

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on July 30, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application, Application No. 10/847909, was filed within twelve months of provisional Application No. 60/471,555, which was filed on May 19, 2003, for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

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

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

This matter is being referred to Technology Center Art Unit 3731 for appropriate action on the amendment submitted July 16, 2009, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/830,482 | 07/30/2007 | 3731 | 1680 | SPTRNZ00400 | 31 | 1 |

**CONFIRMATION NO. 2895**

**CORRECTED FILING RECEIPT**

40518
LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

*OC000000037512455*

Date Mailed: 08/25/2009

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)**

E. Skott GREENHALGH, Wyndmoor, PA;
Stephen J. Kleshinski, Scituate, PA;

**Assignment For Published Patent Application**

Stout Medical Group. L.P., Perkasie, PA

**Power of Attorney:** The patent practitioners associated with Customer Number 40518

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/860,393 11/20/2006
and claims benefit of 60/866,847 11/21/2006
and is a CIP of 11/323,640 01/03/2006
which is a DIV of 10/847,909 05/19/2004 PAT 7,122,043
which claims benefit of 60/471,555 05/19/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,482**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

MECHANICAL TISSUE DEVICE AND METHOD

**Preliminary Class**

623

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

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SEP 28 2009

OFFICE OF PETITIONS

**LEVINE BAGADE HAN LLP**
**2400 GENG ROAD, SUITE 120**
**PALO ALTO CA 94303**

| | | |
|---|---|---|
| In re Application of | : | |
| **GREENHALGH,** E. Skott et al. | : | |
| Application No. 11/830,482 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **SPTRNZ00400** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 2009.

The request is **APPROVED**.

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

The request was signed by David Levine on behalf of all attorneys of record who are associated with customer No. 40518. All attorneys/agents associated with the Customer Number 40518 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **E. SKOTT GREENHALGH**
**820 PENLLYN PIKE**
**LOWER GWYNEED PA 19002**

cc: **SEPTRX, INC.**
**47533 WESTINGHOUSE DRIVE, SUITE C**
**FREMON CA 94539**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**REED SMITH, L.L.P.**
**ATTN: PATENT RECORDS DEPARTMENT**
**599 LEXINGTON AVENUE, 29TH FLOOR**
**NEW YORK, NY 10022-7650**

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SEP 1 7 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Gould et al. | : | |
| Application No. 11/830,484 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | |
| Attorney Docket No. JG-ELK-5288/501100.20021 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 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 September 12, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on November 13, 2007. A Notice of Abandonment was mailed September 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed Oath/Declaration, a substitute specifiacation, and the $130.00 late surcharge, (2) the petition fee of $1540.00, 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.

Further, 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. 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.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,230.00, five month extension of time fee submitted with the petition on April 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Liana Walsh
Petition Examiner
Office of Petitions

cc: Duane Morris, L.L.P.
Jules E. Goldberg
1540 Broadway
New York, NY 10036-4086

UNITED STATES PATENT AND TRADEMARK OFFICE

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**DLA PIPER LLP (US)**
**ATTN: PATENT GROUP**
**P.O. Box 2758**
**Reston VA 20195**

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**JAN 04 2010**

| | | |
|---|---|---|
| In re Application of | : | |
| Nathans et al. | : | DECISION ON PETITION |
| Application No. 11/830,536 | : | TO WITHDRAW |
| Filed: July 30, 2007 | : | FROM RECORD |
| Attorney Docket No. 9520-003 DIV | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 2, 2009.

The request is **NOT APPROVED**.

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

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

Further, although the petition is signed by the attorney of record it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number.

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

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**DLA PIPER LLP (US)**
**ATTN: PATENT GROUP**
**P.O. BOX 2758**
**RESTON VA 20195**

COPY MAILED
FEB 04 2010

In re Application of
Nathans et al.
Application No. 11/830,536
Filed: July 30, 2007
Attorney Docket No. 9520-003 DIV

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 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 James M. Heintz on behalf of all attorneys of record who are associated with Customer No. 24510.

All attorneys/agents associated with Customer Number 24510 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Franklin B. Levin, Esq.
Senior Vice President & General Counsel
Pay Rent, Build Credit, Inc.
100 Canal Pointe Blvd.,Suite 208
Princeton NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shrikanth Shankar | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644106 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,538 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

**Applicant** : Shrikanth Shankar
**Patent Number** : 7644106
**Issue Date** : 01/05/2010
**Application No** : 11/830,538
**Filed** : 07/30/2007

: 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 **271** 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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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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DEC 12 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Daniel David Lecloux et al | : |
| Application No. 11/830,550 | : DECISION ON PETITION |
| Filed: July 30, 2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. PE0678USDIV | : |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on July 30, 2007. Intermediate Application No. 10/284,593 filed October 31, 2002, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/347,911, which was filed on November 7, 2001, 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 improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an

application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Daniel David Lecloux et al | : | |
| Application No. 11/830,550 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. PE0678USDIV | : | |

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 16, 2009, 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 amendment filed February 19, 2009.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

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

The application is being forwarded to Technology Center AU 1794 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

David Bucci
Petition Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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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 |
|---|---|---|---|---|---|---|
| 11/830,550 | 07/30/2007 | 1794 | 1200 | PE0678USDIV | 14 | 4 |

**CONFIRMATION NO. 3017**

**CORRECTED FILING RECEIPT**

23906
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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

*OC000000035003734*

Date Mailed: 03/16/2009

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)**

DANIEL DAVID LECLOUX, Wilmington, DE;
VIACHESLAV A. PETROV, Hockessin, DE;
YING WANG, Wilmington, DE;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/284,593 10/31/2002 PAT 7,250,512
which claims benefit of 60/347,911 11/07/2001

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 09/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/830,550**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

ELECTROLUMINESCENT IRIDIUM COMPOUNDS HAVING RED-ORANGE OR RED EMISSION AND DEVICES MADE WITH SUCH COMPOUNDS

**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).

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/830,569 | 07/30/2007 | Tim Lan | 25604-12558 |

**CONFIRMATION NO. 3049**

**POWER OF ATTORNEY NOTICE**

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

*OC000000036661674*

Date Mailed: 06/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/08/2009.

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

/idingle/

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

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/830,569 | 07/30/2007 | Tim Lan | 25604-12558 |

**CONFIRMATION NO. 3049**

**POA ACCEPTANCE LETTER**

Shih Mo (of RedDot Wireless Inc.)
c/o AceNet Technology
4677 Old Ironside Dr.
Santa Clara, CA 95054

*OC000000036661675*

Date Mailed: 06/26/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/08/2009.

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/

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

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glm

9-4-07

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|---|---|---|
| In re application of | : | |
| Aiken et al. | : | |
| Serial No. 11/830,636 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | TO MAKE SPECIAL |
| For: TERRESTRIAL SOLAR ARRAY | : | |

This is a decision on the petition filed on July 30, 2007 to make the above-identified application special under the accelerated examination program.

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

under 35 USC 112, first paragraph, in each such application in which such supports exists;

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

## DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-4, and 6) are considered to have been met in substance (but see below regarding the lack of signature). However, the petition fails to comply with condition II, subsections 5.

Initially it is noted that the petition was unsigned. Neither a traditional signature nor an S-signature (electronic signature) appears on the petition. A signed copy of the petition is required before the petition can be considered as fully meeting the requirements in section II above.

Secondly, the search is considered to be incomplete. A search in class 136, subclass 246 is required. The application will be classified in this subclass for examination, therefore a search in this subclass is mandatory. Also, use search terms including 'multi-junction,' 'heliostat,' and '(solar or sun) tracking' are suggested.

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

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

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

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

Any inquiry regarding this decision should be directed to Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Emcore Corporation
1600 Eubank Blvd., SE
Albuquerque NM 87123

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10-1-07

| | | |
|---|---|---|
| In re application of<br>Aiken et al.<br>Serial No. 11/830,636<br>Filed: July 30, 2007<br>For: TERRESTRIAL SOLAR ARRAY | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO MAKE SPECIAL |

This is a decision on the renewed PETITION TO MAKE SPECIAL UNDER ACCELERATED EXAMINATION PROGRAM filed on September 19, 2007 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

As the previously noted defects have been corrected by the renewed petition and accompanying documents, the petition to make the application special is **GRANTED.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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

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

Application No. 11/830,636

Any inquiry regarding this decision should be directed to Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Emcore Corporation
1600 Eubank Blvd., SE
Albuquerque NM 87123

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**FOLEY & LARDNER LLP**
**975 PAGE MILL ROAD**
**PALO ALTO CA 94304**

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APR 07 2010

**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Wilson et al. | : | DECISION ON PETITION |
| Application No. 11/830,650 | : | TO WITHDRAW |
| Filed: July 30, 2007 | : | FROM RECORD |
| Attorney Docket No. NVT-084USCN2 | : | |

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 3, 2010.

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

A review of the file record indicates that on April 5, 2010 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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**FOLEY & LARDNER LLP**
**975 PAGE MILL ROAD**
**PALO ALTO CA 94304**

**MAILED**

APR 07 2010

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|---|---|---|
| In re Application of | : | |
| Wilson et al. | : | DECISION ON PETITION |
| Application No. 11/830,659 | : | TO WITHDRAW |
| Filed: July 30, 2007 | : | FROM RECORD |
| Attorney Docket No. 093397-0504 | : | |

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 3, 2010.

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

A review of the file record indicates that on April 6, 2010 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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|---|---|---|
| In re Application of | : | |
| Wilson et al. | : | DECISION ON PETITION |
| Application No. 11/830,668 | : | TO WITHDRAW |
| Filed: July 30, 2007 | : | FROM RECORD |
| Attorney Docket No. 093397-0505 | : | |

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 3, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Antoinette F. Konski on behalf of all attorneys of record who are associated with Customer No. 38706.

All attorneys/agents associated with Customer Number 38706 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

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

Currently, there is an outstanding Office action mailed December 10, 2009 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: William R. Wilson
199 Smith Rd
Waiuku, New Zealand RD2

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**975 PAGE MILL ROAD**
**PALO ALTO CA 94304**

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APR 07 2010

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| In re Application of | : | |
| Wilson et al. | : | DECISION ON PETITION |
| Application No. 11/830,677 | : | TO WITHDRAW |
| Filed: July 30, 2007 | : | FROM RECORD |
| Attorney Docket No. NVT-084USCN5RCE | : | |

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 3, 2010.

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

A review of the file record indicates that on April 6, 2010 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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720 HAMPTON ROAD
SHAVERTOWN PA 18708

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|---|---|---|
| In re Application of | : | |
| Howard Gonchar, et al. | : | |
| Application No. 11/830,681 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 146-002 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 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 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 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

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|---|---|---|
| In re Application of | : | |
| Richard D. Gless Jr. | : | |
| Application No. 11/830,742 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **074019-0301** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the address for neither the first named inventor nor the assignee of record was not provided in the request. The Office will only accept 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 or, the most current address of the first named inventor.

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

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**JENNINGS, STROUSS & SALMON, P.L.C.**
**201 E. WASHINGTON ST., 11TH FLOOR**
**PHOENIX AZ 85004**

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|---|---|---|
| In re Application of | : | |
| **SONES,** Scott F. | : | |
| Application No. 11/830,749 | : | DECISION ON PETITION |
| Filed: July 30, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 58550-2 CIP2 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2009.

The request is **APPROVED**.

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

The request was signed by Christine Mcauliffe on behalf of all attorneys of record who are associated with customer No. 39978. All attorneys/agents associated with the Customer Number 39978 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Scott Sones at the address indicated below. There is an outstanding Office action mailed August 07, 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: **OPTIONPHARMACEUTICALS**
**ATTN: SCOTT SONES**
**P.O. BOX 414**
**NILAND CA 92267**

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Craig A. Paulsen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641554 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,780 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **92** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUGAN & DUGAN, PC
245 Saw Mill River Road
Suite 309
Hawthorne, NY 10532

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yihwan Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588980 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,830 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **61** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

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| **Applicant** | : Bonnie I. Wang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586341 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/830,831 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/30/2007 | : 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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**Chien-Hui Su**
**P. O. Box 70-121 Taichung**
**Taichung City 40899 TW TAIWAN**

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FEB 19 2009

OFFICE OF PETITIONS

In re Application of :
Kou-Ling LIU :
Application No. 11/830,862 :
Filed: July 31, 2007 :
Attorney Docket No. GFP-964441 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 13, 2007, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 14, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of August 13, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

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

David A. Bucci
Petitions Examiner
Office of Petitions

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**KELLEY DRYE & WARREN LLP**
**400 ALTLANTIC STREET , 13TH FLOOR**
**STAMFORD CT 06901**

**MAILED**

AUG 14 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Pearah et al. | : | DECISION ON PETITION |
| Application No. 11/830,871 | : | TO WITHDRAW |
| Filed: July 31, 2007 | : | FROM RECORD |
| Attorney Docket No. NU-160(US)(D) | : | |

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

The request is **NOT APPROVED**.

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

The Office will 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). This includes address changes to law firms, where no new power of attorney has been filed in the application. Accordingly, the request cannot be granted.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/830,891 | 07/31/2007 | Ramsey Jallad | 107450-59911 | 3574 |

26345 7590 12/21/2007
GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2131 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/21/2007 | 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):

thibbits@gibbonslaw.com
abriggs@gibbonslaw.com
IPDocket@gibbonslaw.com

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ONE GATEWAY CENTER
NEWARK NJ 07102

In re Application of:
Ramsey Jallad, et al.
Serial No.: 11/830,891
Filed: July 31, 2007
Docket: 107450-59911
Title: SYSTEMS AND METHODS FOR SECURELY PROVIDING AND/OR ACCESSING INFORMATION

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 November 2, 2007 to make the above-identified application (filed on July 31, 2007) 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 filed at a date later than the filing date of the application, thus the petition was not filed with the application, as required above.

Note also that MPEP § 708.02 requires that a petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, subsection II was required to be filed prior to August 25, 2006.

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 Kakali Chaki, at (571) 272-3719.

Kakali Chaki, Quality Assurance Specialist

Technology Center 2100

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

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JUN 03 2010

OFFICE OF PETITIONS

In re Application of
MATTHEW G. MCKEE ET AL.
Application No. 11/830,934
Filed: July 31, 2007
Attorney Docket No. **VTIP-118**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed April 21, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 59241 has been revoked by the applicants of the patent application on April 22, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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

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**MITHCHELL A. SMOLOW**
**720 HAMPTON ROAD**
**SHAVERTOWN, PA 18708**

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|---|---|---|
| In re Application of | : | |
| Robert Cohn et al. | : | |
| Application No. 11/830,957 | : | DECISION ON PETITION |
| Filed: July 31, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 72-006 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 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 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 1761 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
www.uspto.gov

Paper No.

LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

COPY MAILED

DEC 3 1 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Anton Sabev | : | DECISION ACCORDING STATUS |
| Application No. 11/830,958 | : | UNDER 37 CFR 1.47(b) |
| Filed: July 31, 2007 | : | |
| Atty Docket No. 1496.00570/ | : | |
| 07-0487 | : | |

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47 filed October 17, 2007 (certificate of mailing dated Monday, October 15, 2007).

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

The above-identified application was filed on July 31, 2007, without an executed oath or declaration. Accordingly, on August 13, 2007, the Office mailed a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, requiring an executed oath or declaration and the surcharge for its late filing. (In addition, applicant was advised that the statutory basic filing fee, search fee, and examination fee). This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, rule 47(b) applicant timely filed the instant petition (and submitted the missing fees). The petition was filed by the assignee and includes a 3.73(b) statement signed by attorney Timothy Croll and a copy of the assignment agreement ("Employee Invention and Confidential Information Agreement") submitted for recording. The 3.73 statement states that the agreement has been submitted for recording but is not accompanied by a statement of the reel/frame number where such an assignment is recorded, as required by 3.73(b)(1)(ii).

Nonetheless, a review of the record confirms that on October 15, 2007, rule 47 applicant also submitted a copy of the assignment for recording (and it is now recorded at reel/frame, 019961/0870). In view thereof, the assignee may file the instant petition.

§1.47(b) provides that:

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

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

The petition and declaration have been reviewed and found to satisfy all requirements above. The declaration is signed by Timothy Croll, as authorized representative of the assignee

company, and is in compliance with the requirements set forth in (1) and (2) above. By declaration of facts of John Ignatowski, and supporting documentary evidence, petitioner has shown that inventor Sabev has, by his conduct in refusing to respond, refused to join in the application after having been presented with the application papers. Receipt of the petition fee is acknowledged. The petition includes a statement of the last known address of the non-signing inventor. Petitioner includes a copy of the employment agreement indicating agreement to assign the invention. The petition includes a statement that the instant application is directed to an invention disclosure by inventor Sabev to the assignee within the scope of the employment agreement. Finally, rule 47(b) applicant states that the assignee indicates that the filing of the application is necessary to preserve the rights of the parties or to prevent irreparable damage (e.g., petitioner states LSI will suffer the loss of rights to this invention if the '958 application is abandoned).

This application is hereby accorded Rule 1.47(b) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTOV SABEV
4517 CARLYLE COURT
APT. 4204
SANTA CLARA CA 95054

COPY MAILED

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Anton Sabev | : | |
| Application No. 11/830,958 | : | LETTER |
| Filed: July 31, 2007 | : | |
| Atty Docket No. 1496.00570/ | : | |
| 07-0487 | : | |

Dear Mr. Sabev:

You are named as sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT HENRIE
FOX ROTHCHILD LLP
2000 MARKET STREET
PHILADELPHIA, PA 19103

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DEC 1 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jianhua MAO et al | : | |
| Application No. 11/830,962 | : | DECISION ON PETITION |
| Filed: July 31, 2007 | : | |
| Attorney Docket No. U 0273 F04A US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2009. Accordingly, the date of abandonment of this application is November 19, 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 $ 1510.00, and publication fee of $300.00, (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Publishing Division for processing into a patent.

Thurman K. Page
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. |
|---|---|---|---|---|
| 11/830,981 | 07/31/2007 | Shinichi HONDA | SCEP 23.140 | 3718 |

26304 7590 03/18/2009
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

| EXAMINER |
|---|
| SNYDER, STEVEN G |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2184 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/18/2009 | 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

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of: HONDA et al.
Application No. 11/830,981
Filed: July 31, 2007
For: **AUDIO PROCESSOR, INPUT/OUTPUT PROCESSING APPARATUS, AND INFORMATION PROCESSING APPARATUS**

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 February 26, 2009 to make the above-identified application special.

The Request and Petition is **GRANTED.**

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

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

Or

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

Or

(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application.

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the 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 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 Mano Padmanabhan at 571-272-4210.

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

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

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**WILLIS JOE WILLIAMS**
**3551 COUNTRY ROAD 100**
**CORINTH MS 38834**

**COPY MAILED**

SEP 2 5 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **WILLIAMS,** Willis J. | : | |
| Application No. 11/831,009 | : | DECISION ON PETITION |
| Filed: July 31, 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 April 09, 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 Willis William 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 2626 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**PFIZER INC.**
**PATENT DEPARTMENT**
**BLD 114 M/S 114**
**EASTERN POINT ROAD**
**GROTON CT 06340**

MAILED

NOV 06 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andrew Simon Bell et al | : | |
| Application No. 11/831,021 | : | DECISION ON PETITIONS |
| Filed: July 31, 2007 | : | |
| Attorney Docket No. PC25570B | : | |
| | : | |

This is a decision on the petition filed May 15, 2009, entitled "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a) OR REVIVE UNAVOIDABLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(a)."

The petitions are **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 2, 2008.

Petitioner states that the Office Action which was received was not directed to the claims pending in the instant application.

Petitioner further states that, "On July 10, 2008, in a telephone conversation between the undersigned attorney and the Examiner, the inconsistency in the July 02, 2008 Office Action was discussed. The Examiner agreed with the undersigned that the Office Action was not directed to the claims under consideration. Applicants offered to simply elect the compound claims at that

time. However, the Examiner stated that it would be best, and would avoid confusion, to withdraw the Office Action and mail a new Office Action directed to the actual claims under consideration."

However, as noted by the Petitioner, the Office has no record of such an interview with the examiner. In any event, applicant was still required to timely reply to the Restriction Requirement mailed July 2, 2008. Petitioner should 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).

Therefore, the petitions under 37 CFR 1.181(a) and 1.137(a) are dismissed as no reply to the Restriction Requirement was submitted with neither petition on May 15, 2009.

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

PTO/SB/61 (04-09)
Approved for use through 05/31/2009. 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 UNAVOIDABLY UNDER 37 CFR 1.137(a) | Docket Number (Optional) PC25570B |
|---|---|

First Named Inventor: Andrew Simon Bell
Art Unit: 1624
Application Number: 11/831,021
Examiner: Susanna Moore
Filed: July 31, 2007

Title: Novel Pharmaceuticals

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 any 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) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

☑ Other than small entity – fee $ 510.00 * (37 CFR 1.17(l)).

2. Reply and/or fee

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

☐ has been filed previously on _____.

☑ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.



This collection of information is required by 37 CFR 1.137(a). 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 8 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. **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.

## PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and 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(a) was unavoidable, is enclosed.

**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.

Robert T. Ronau — Signature

May 15, 2009 — Date

Robert T. Ronau — Typed or printed name

36,257 — Registration Number, if applicable

Pfizer Inc, MS9114, Patent Dept — Address

860-441-5910 — Telephone Number

Eastern Point Road, Groton CT 06340 — Address

Enclosure
☐ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

**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 _____

PTO/SB/61 (04-09)
Approved for use through 05/31/2009. 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 UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Robert T. Ronau — Signature

May 15, 2009 — Date

Robert T. Ronau — Typed or printed name

36,257 — Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

* With respect to the petition fee, Applicants submit that no fee should be due since the Office Action was based upon claims not pending in the instant application.

On July 02, 2008, an Office Action was mailed in the subject application requiring restriction of the claims. In the Office Action, the Examiner set forth two groups. Group I was directed to Claims 1-14, drawn to compounds. Group II was directed to Claim 15, drawn to a use claim. This Office Action is of record in PAIR.

There are 23 claims asserted in the subject application. Claims 1-14, 21 and 22 are compound claims. Claims 15 and 19 are pharmaceutical composition claims. Claim 17 is a method claim. Claims 16, 18 and 20 are use claims. Claim 23 is a process claim. The claims are of record in PAIR.

On July 10, 2008, in a telephone conversation between the undersigned attorney and the Examiner, the inconsistency in the July 02, 2008 Office Action was discussed. The Examiner agreed with the undersigned that the Office Action was not directed to the claims under consideration. Applicants offered to simply elect the compound claims at that time. However, the Examiner stated that it would be best, and would avoid confusion, to withdraw the Office Action and mail a new Office Action directed to the actual claims under consideration. Applicants agreed and awaited the new Office Action, which was never sent. Applicants note that this telephone conversation is not of record in PAIR. However, a dated, electronic record of the conversation was placed in the Pfizer electronic filing system.

On March 11, 2009, a Notice of Abandonment was mailed in the subject patent application. The Notice states that the application was abandoned by reason of failure of Applicants to respond to the Office letter mailed on July 02, 2008. Applicants submit that the Office Action sent to Applicants was incapable of being responded to since the restriction requirement which was made therein was not directed to the actual claims being asserted by Applicants.

Applicant draws the Director's attention to the Petition to Withdraw The Holding of Abandonment Under 37 CFR §1.181(a) filed herewith.

*(Please attach additional sheets if additional space is needed.)*

PATENT
PC25570B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| IN RE APPLICATION OF: Andrew Simon Bell | : | EXAMINER: Susanna Moore |
| SERIAL NO.: 11/831,021 | : | ART UNIT: 1624 |
| FILED: July 31, 2007 | : | |
| FOR: Novel Pharmaceuticals | : | |

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Commissioner:

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 C.F.R. §1.181(a) OR
REVIVE UNAVOIDABLY ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(a)

This paper is being filed in response to a Notice of Abandonment mailed March 11, 2009 in the subject patent application.

Applicants petition the Director under 1.181(a) to withdraw the holding of abandonment in the subject patent application. Alternatively, Applicants hereby petition the Director under 37 C.F.R. §1.137(a) to revive the subject application. Applicants submit that the abandonment of this application was unavoidable for the reasons set forth below.

Applicants submit that the abandonment of this application was in error since an Office Action directed to the merits of the pending claims was never received. The Office Action which was received was not directed to the claims pending in the instant application.

On July 02, 2008, an Office Action was mailed in the subject application requiring restriction of the claims. In the Office Action, the Examiner set forth two groups. Group I was directed to Claims 1-14, drawn to compounds. Group II was directed to Claim 15, drawn to a use claim. This Office Action is of record in PAIR.

There are 23 claims asserted in the subject application. Claims 1-14, 21 and 22 are compound claims. Claims 15 and 19 are pharmaceutical composition claims. Claim 17 is a method claim. Claims 16, 18 and 20 are use claims. Claim 23 is a process claim. The claims are of record in PAIR.

On July 10, 2008, in a telephone conversation between the undersigned attorney and the Examiner, the inconsistency in the July 02, 2008 Office Action was discussed. The Examiner agreed with the undersigned that the Office Action was not directed to the claims under consideration. Applicants offered to simply elect the

compound claims at that time. However, the Examiner stated that it would be best, and would avoid confusion, to withdraw the Office Action and mail a new Office Action directed to the actual claims under consideration. Applicants agreed and awaited the new Office Action, which was never sent. Applicants note that this telephone conversation is not of record in PAIR. However, a dated, electronic record of the conversation was placed in the Pfizer electronic filing system.

On March 11, 2009, a Notice of Abandonment was mailed in the subject patent application. The Notice states that the application was abandoned by reason of failure of Applicants to respond to the Office letter mailed on July 02, 2008. Applicants submit that the Office Action sent to Applicants was incapable of being responded to since the restriction requirement which was made therein was not directed to the actual claims being asserted by Applicants.

Applicants respectfully submit that it is difficult for Applicants to reply to the Office Action since it was not directed to the claims pending in the instant application. While there is no way to know for sure what form a restriction requirement of the actual pending claims would take, Applicants are willing to elect, with traverse, since no actual restriction requirement has been made, the compound claims, i.e., Claims 1-14, 21 and 22, if that would satisfy the response requirement.

Applicants respectfully submit that no fee should be required to obtain a withdrawal of the holding of abandonment or to revive this unavoidably application, which applicants submit was abandoned because Applicants were being required to respond to an Office Action which was not directed to the pending claims of the application and, given the opportunity to correct the Office Action, the Patent Office did not do so. However, in the event that a fee is required, Applicants hereby authorize the Director to charge Deposit Account Number 16-1445 in the amount of $510.00 under 37 C.F.R. §1.17(l) and any other fees required. Applicants also request that any overpayment be credited to Deposit Account Number 16-1445.

Applicants respectfully request that the holding of abandonment in the instant application be withdrawn. Alternatively, applicants respectfully request that the instant application be revived.

An early allowance of the claims is earnestly solicited.

Respectfully submitted,

Dated: May 15, 2009

Robert T. Ronau
Attorney for Applicants
Reg. No. 36,257

Pfizer Inc.
Patent Department
Eastern Point Road
Groton, CT 06340
(860) 441-5910

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11831021 Total Records Found: 8

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 05/18/2009 | 00004282 | 4 | 1452 | $540.00 | 05/15/2009 | DA 161445 |
| 08/13/2007 | 00000009 | 1 | 1202 | $150.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010837 | 4 | 1081 | $750.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010838 | 4 | 1202 | $450.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010839 | 4 | 1203 | $360.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010835 | 4 | 1111 | $500.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010834 | 4 | 1011 | $300.00 | 07/31/2007 | DA 161445 |
| 07/31/2007 | 00010836 | 4 | 1311 | $200.00 | 07/31/2007 | DA 161445 |

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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| SABEV, ANTON I | : | DECISION GRANTING STATUS |
| Application No. 11/831,038 | : | UNDER 37 CFR 1.47(b) |
| Filed: 07/31/2007 | : | |
| Attorney Docket No. 1496.00580 / 07-0420 | : | |
| Title: MANUFACTURING EMBEDDED | : | |
| UNIQUE KEYS USING A BUILT IN | : | |
| RANDOM NUMBER GENERATOR | : | |

This is in response to the petition under 37 CFR 1.47(b), filed October 17, 2007 (certificate of mailing dated Monday, October 15, 2007).

The petition is GRANTED.

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

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Anton I. Sabev
4517 Carlyle Court
Apt. 4202
Santa Clara, CA 95054

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DEC 20 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| ANTON I. SABEV | : | |
| Application No. 11/831,038 | : | LETTER |
| Filed: 07/31/2007 | : | |
| Attorney Docket No. 1496.00580 / 07-0420 | : | |
| Title: MANUFACTURING EMBEDDED | : | |
| UNIQUE KEYS USING A BUILT IN RANDOM | : | |
| NUMBER GENERATOR | : | |

Dear Mr. Sabev:

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

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**WHITE & FUDALA**
**57 BEDFORD STREET**
**SUITE 103**
**LEXINGTON MA 02420**

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JAN 12 2009

| | | |
|---|---|---|
| In re Application of | : | |
| Chris Karabatsos | : | |
| Application No. 11/831,062 | : | ON PETITION |
| Filed: July 31, 2007 | : | |
| Attorney Docket No. KAR_027 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 3, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant's attorney that he is 65 years of age, and is also accompanied with a copy of applicant's New York driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at 571-272-7751. 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 2841 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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NOV 20 2007

OFFICE OF PETITIONS

In re Application of :
Belady et al. :
Application No. 11/831,153 : ON PETITION
Deposited: July 31, 2007 :
Attorney Docket No.: 200700409-1 :
Title of Invention: Method of :
Manufacturing A Computing Apparatus:
:
:

This is a decision on the "Petition To Accord Filing Date For Non-Provisional Patent Application" filed October 9, 2007, requesting that the above-identified application be accorded the filing date of July 31, 2007.

Application papers in the above-identified application were deposited on July 31, 2007. However, on August 15, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on October 9, 2007, the present petition was filed. Petitioner states that drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the July 31, 2007 filing date without any drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 USC 113 (first sentence). The above application contains at least one method claim.

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[1] <u>See</u> 35 U.S.C. 111(a)(4)

Since the petition contains a statement that drawings are not necessary for an understanding of the invention and the petition is signed by a registered practitioner, on petition, the application will be accorded the requested filing date without any drawings.

The petition is **Granted** to the extent indicated.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

The examiner will make a determination whether the preliminary amendment submitted on petition should be entered.

The application will be processed with only the papers present on filing and is hereby accorded a filing date of July 31, 2007, without drawings as part of the original disclosure.

The application is being returned to the Office of Patent Application Processing for reprocessing with a filing date of **July 31, 2007**, using the application papers filed on that date, and an indication in PTO records to show that zero (0) sheets of drawings were present on filing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES IA 50309-4076

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SEP 01 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : DECISION ON PETITION |
| Mark Robert Stelter et al. | : UNDER 37 CFR 1.78(a)(3) |
| Application No. 11/831,176 | : and |
| Filed: July 31, 2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. **2-5169-107** | : |

This is a decision on the petition filed May 8, 2009 under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of prior-filed non-provisional and provisional applications as set forth in the concurrently filed supplemental amendment and Application Data Sheet (ADS).

The petition under 37 CFR 1.78 is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claims for priority under 35 U.S.C. § 120 and 119(e) are accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

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

The fee in the amount of $1410 for the petition under 37 CFR 1.78 has been charged to petitioner's deposit account.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. 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 3725 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed non-provisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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 |
|---|---|---|---|---|---|---|
| 11/831,176 | 07/31/2007 | 3725 | 1730 | 2-5169-107 | 14 | 4 |

**CONFIRMATION NO. 3999**

**CORRECTED FILING RECEIPT**

803
STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

*OC000000037423116*

Date Mailed: 08/20/2009

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)**

Mark Robert Stelter, Pella, IA;
James L. O'Halloran, Pella, IA;
Dennis K. Gabler, Adel, IA;
Jeffrey D. Kernwein, Pella, IA;
Ivan R. Brand, Pella, IA;
Brian M. Johnson, Monroe, IA;

**Power of Attorney:**

H Henderson--18486
Michael Sturm--26078
William Wright--26424
John Cepican--26851
Richard Fix--28297
Thomas Oppold--42054

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/537,824 10/02/2006
which is a DIV of 11/416,422 05/02/2006 PAT 7,232,083
which is a DIV of 10/001,509 10/31/2001 PAT 7,044,409
which claims benefit of 60/246,670 11/08/2000

**Foreign Applications**

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/831,176**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**Title**

BRUSH CHIPPER AND METHODS OF OPERATING SAME

**Preliminary Class**

241

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

**NOT GRANTED**

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

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IPSG, PC
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SAN JOSE, CA 95170-0640

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| | |
|---|---|
| In re Application of<br>Ricardo Mariano, et al.<br>Application No. 11/831,231<br>Filed: July 31, 2007<br>Attorney Docket No. P5299US1/APPL-P029 | DECISION ON PETITION<br>TO WITHDRAW<br>FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to IPSG, PC has been revoked by the assignee of the patent application on December 30, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO CA 95015-1687

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MAILED**

MAR 03 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lekun LIN, et al | : | |
| Application No. 11/831,364 | : | DECISION ON PETITION |
| Filed: July 31, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 25604-13089 | : | FROM RECORD |
| | : | |

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 8, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of the first named inventor or an assignee of the entire interest who has properly been made of record under 37 C.F.R 3.71.

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

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,367 | 07/31/2007 | Nobuaki Nagao | 82478-3217 | 4284 |

21611 7590 02/09/2009
SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

| EXAMINER |
|---|
| SHANKAR, VIJAY |

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

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/09/2009 | 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090202A

DATE : February 11, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,429,967

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: /Bipin Shalwala/ Art Unit /2629

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

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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NOV 16 2007

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of: | |
| Hetzel et al. | |
| Application No. 11/831388 | DECISION DISMISSING |
| Filing or 371(c) Date: 07/31/2007 | PETITION UNDER |
| Title of Invention: | 37 CFR 1.47(a) |
| DISTRIBUTED NETWORK SYSTEM | |
| WITH HIERARCHICAL MANAGEMENT | |
| OF RESOURCES | |

This Decision is in response to the "Petition Under 37 C.F.R. § 1.47," filed October 17, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The petition is properly treated under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on July 31, 2007, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on August 17, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition wherein Applicant provides that a copy of the application was sent to the European Agent for obtaining the signatures from each inventor. Applicant states that the nonsigning inventor signed a oath/declaration however, he struck through the paragraph

required under 37 CFR 1.68[1] and refuses to sign a declaration which includes such paragraph. A copy of the oath/declaration with the paragraph struck-through is filed with the petition.

Applicable Law, Rules and MPEP

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

As to item (1), the MPEP provides:

> 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.

MPEP 409.03(d).

In this instance, Applicant asserts that the nonsigning inventor refuses to execute a declaration as required by 37 CFR 1.68; however, a statement from a person with firsthand knowledge of the refusal has not been presented.

Conclusion

A statement of facts from a person with firsthand knowledge of the refusal, setting forth the facts of the refusal as they know them, is required.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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[1] 37 CFR § 1.68, Declaration in lieu of oath, states:

> Any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration. Such declaration may be used in lieu of the oath otherwise required, if, and only if, the declarant is on the same document, warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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FEB 28 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Hetzel et al. | : | |
| Application No. 11/831388 | : | DECISION GRANTING |
| Filing or 371(c) Date: 07/31/2007 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| DISTRIBUTED NETWORK SYSTEM | : | |
| WITH HIERARCHICAL MANAGEMENT | : | |
| OF RESOURCES | : | |

This Decision is in response to the "Request fro Reconsideration of Petition Under 37 C.F.R. § 1.47," filed January 15, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The petition is 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, Herbert Wetzel, 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 Technology Center Art Unit 2616 for examination in due course.

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. HERBERT WETZEL
IM PFARRWINGERT 18
76889 SCHWEIGEN-RECHTENBACH
GERMANY

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of: | : | |
| Hetzel et al. | : | |
| Application No. 11/831388 | : | LETTER |
| Filing or 371(c) Date: 07/31/2007 | : | |
| Title of Invention: | : | |
| DISTRIBUTED NETWORK SYSTEM | : | |
| WITH HIERARCHICAL MANAGEMENT | : | |
| OF RESOURCES | : | |

Dear Mr. Wetzel:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jared Welz | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586378 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/831,399 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **65** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 28 2010

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**EDWARD YOO C/O BENNETT JONES**
**1000 ATCO CENTRE**
**10035 - 105 STREET**
**EDMONTON, ALBERTA AB T5J3T-2 CA CANADA**

| | | |
|---|---|---|
| In re Application: | : | |
| David Mitlin et al. | : | |
| Application No. 11/831,434 | : | NOTICE |
| Filed: July 31, 2007 | : | |
| Attorney Docket No. 55326.10 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 25, 2009. 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. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Charlie V. Wihren | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7611016 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/831,441 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **93** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,466 | 07/31/2007 | Robert Lance Cook | 2725-44000 | 4427 |

| EXAMINER |
|---|

7590 07/11/2008
Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

| ART UNIT | PAPER NUMBER |
|---|---|
| 3672 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/11/2008 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/11/2008 0030058313
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Credit Card Refund Total: $700.00

Am Exp..: XXXXXXXXXXX1009

Adjustment date: 07/11/2008 NFARMER
08/01/2007 INTEFSW 00001539 11831466
02 FC:1111 -500.00 OP
05 FC:1201 -200.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,468 | 07/31/2007 | STEPHANE BEJANIN | G-091US11CON | 4429 |

7590 03/14/2008
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

| EXAMINER |
|---|
| SWOPE, SHERIDAN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1652 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/14/2008 | 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.

Tom Farmer

/Patent Publication Branch
Office of Data Management



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

98703.1P
BAN

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NOV 29

COPY

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|---|---|
| In re Application of<br>Robichaux, Robichaux, Jacobs,<br>Clement, Pellegrin, Caillouet, and<br>Watson<br>Application No. 10/658,092<br>Filed: 9 September, 2003<br>Atty Docket No. P03181US (98703/1P) | DECISION ACCORDING STATUS<br>UNDER 37 CFR 1.47(a) |

This is in response to the petition filed under 37 CFR 1.47(a) on 7 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Philip K. Watson, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established that a copy of the above-identified application was sent to the non-signing inventor. The non-signing inventor, however, has failed to sign and return the declaration naming him as a joint inventor along with Kip M. Robichaux, Terry P. Robichaux, Steve Jacobs, Bryan Clement, Murry Pellegrin, and Kenneth G. Caillouet.

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

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

The application is being referred to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
bnw 11-04

Philip K. Watson
14 Dallas Drive
Houma LA 70360

**COPY MAILED**

NOV 2 4 2004

**OFFICE OF PETITIONS**

In re Application of
Robichaux et al.
Application No. 10/658,092
Filed: 9 September, 2003
For: TOP DRIVE SWIVEL APPARATUS AND METHOD

Dear Mr. Watson:

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 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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

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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. |
|---|---|---|---|---|
| 11/831,503 | 07/31/2007 | Edward Kai-Ning YUNG | 2055.076 | 4498 |

7590 12/10/2009
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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

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

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/10/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 MFARMER
10/15/2007 INTEFSW 00023982 081935 11831503
02 FC:2111 255.00 CR
04 FC:2202 125.00 CR
05 FC:2201 105.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Vivek Bhargava | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591013 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/831,562 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/31/2007 | : 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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/17/2010

**Applicant** : Vivek Bhargava
**Patent Number** : 7591013
**Issue Date** : 09/15/2009
**Application No** : 11/831,562
**Filed** : 07/31/2007

: 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 **54** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**FITCH EVEN TABIN & FLANNERY**
**120 SOUTH LASALLE STREET, SUITE 1600**
**CHICAGO, IL 60603-3406**

**COPY MAILED**

DEC 3 1 2009

**OFFICE OF PETITIONS**

In re Application of

**Munish SIKKA**
Application No. 11/831,610
Filed: July 31, 2007
Attorney Docket No. **90589/8554**

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 7, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

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

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,617 | 07/31/2007 | Masayoshi Kanno | 112857-1137 | 4696 |

7590 10/08/2009

K&L Gates LLP
P. O. BOX 1135
CHICAGO, IL 60690

| EXAMINER |
|---|
| O HERN, BRENT T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1794 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/08/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/08/2009 NFARMER
08/01/2007 INTEFSW 00002465 021818 11831617
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.**
**1940 DUKE STREET**
**ALEXANDRIA, VA 22314**

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JAN 15 2010

| | | |
|---|---|---|
| In re Application of | : | |
| **Kunie OGATA**, et *al.* | : | |
| Application No. 11/831,622 | : | DECISION GRANTING PETITION |
| Filed: July 31, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **312784US26** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 14, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on November 3, 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 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Silicon Valley Patent Group LLP
Attn: SYNOPSYS
18805 Cox Avenue
Suite 220
Saratoga, CA 95070

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shashidhar Anil Thakur | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617468 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/831,673 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 07/31/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **143** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**MEDICINELODGE INC.**
**180 SOUTH 600 WEST**
**LOGAN UT 84321**

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SEP 02 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Morteza M. FARR et al. | : | |
| Application No. 11/831,698 | : | DECISION ON PETITION |
| Filed: July 31, 2007 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. INS-1 | : | |

This is a decision on the petition, filed May 07, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 05, 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 December 11, 2008 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3733 for examination in due course.

Michelle R. Eason
Paralegal Specialist
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 |
|---|---|---|---|
| 11/831,698 | 07/31/2007 | Morteza M. Farr | INS-1 |

**CONFIRMATION NO. 4839**

44270
MEDICINELODGE INC.
180 SOUTH 600 WEST
LOGAN, UT 84321

**NONPUBLICATION RESCISSION LETTER**

*OC000000031863719*

Date Mailed: 09/02/2008

## 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 12/11/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/mreason/

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

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SEP 30 2008

OFFICE OF PETITIONS

MEDICINELODGE INC.
180 SOUTH 600 WEST
LOGAN, UT 84321

In re Application of
Morteza M. Farr, et al.
Application No. 11/831,728
Filed: July 31, 2007
Attorney Docket No. INS-2

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision in response to the petition, filed May 7, 2008, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 5, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 8, 2009 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to the Technology Center 3733 for examination in due course.

Sherry D. Brinkley
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
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/831,728 | 07/31/2007 | Morteza M. Farr | INS-2 |

**CONFIRMATION NO. 4889**

44270
MEDICINELODGE INC.
180 SOUTH 600 WEST
LOGAN, UT 84321

**NONPUBLICATION RESCISSION LETTER**

OC000000032312448

Date Mailed: 09/29/2008

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/08/2009.

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".

/sdbrinkley/

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

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DOLBY LABORATORIES LICENSING CORPORATION
C/O OYEN WIGGS GREEN & MUTALA LLP
480-THE STATION, 601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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**OFFICE OF PETITIONS**

In re Application of :
Lorne Whitehead, et al. :
Application No.: 11/831,749 :
Filed: July 31, 2007 :
Attorney Docket No.: B634 0127/GNM :

ON PETITION

This is a decision on the petition, filed November 4, 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 September 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2862 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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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AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Nigel King and | : | |
| Joe Grundfest | : | DECISION ACCORDING STATUS |
| Application No. 11/831,762 | : | UNDER 37 C.F.R. § 1.47(a) |
| Filed: July 31, 2007 | : | |
| Atty Docket No.021756-008610US | : | |

This is a decision on the PETITION REGARDING REFUSAL OF INVENTOR TO JOIN THE APPLICATION UNDER 35 U.S.C. 116, filed February 13, 2008, which is properly treated pursuant to 37 C.F.R. § 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 31, 2007, without an executed oath or declaration. Accordingly, on August 14, 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 fourth month (and a replacement drawing sheet). The petition includes a declaration executed by joint inventor King on behalf of themselves and on behalf of non-signing inventor

Grundfest. Applicants request acceptance of this declaration pursuant to 37 CFR 1.47(b)[1].

Patent practitioner Lohr states on petition that copies of the application and the parent application with a declaration and assignment were submitted to Dr. Grundfest on multiple dates, and multiple attempts to contact Dr. Grundfest were made regarding these documents. Moreover, and more importantly, practitioner Lohr sets forth the specific facts relied on to conclude that inventor Grundfest refuses to join in the application. Practitioner Lohr details the express oral refusal of inventor Grundfest and the time and place of that refusal and the petition includes documentary evidence of the presentation of the application papers to inventor Grundfest.

The declaration filed February 13, 2008, has been reviewed and found in compliance with § 1.47. The petition includes the petition fee. The last known address of inventor Grundfest is deemed to be as set forth on the declaration for patent. The petition includes adequate proof of the refusal of the non-signing inventor to join in the application.

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

[1] Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. As inventor King is available, the petition is properly treated under 37 CFR 1.47(a).

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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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DR. JOE GRUNDFEST
1700 WEBSTER ST.
PALO ALTO, CA 94301

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AUG 29 2008

OFFICE OF PETITIONS

In re Application of :
Nigel King and :
Joe Grundfest : LETTER
Application No. 11/831,762 :
Filed: July 31, 2007 :
Atty Docket No.021756-008610US:

Dear Dr. Grundfest:

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

JASON LOHR
TOWNSEND AND TOWNSEND
AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

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| | | |
|---|---|---|
| In re Application of | : | |
| Todd Sampson, John Sampson, | : | |
| Steve Ho, Eric Marcoullier, and | : | |
| Neil Scott Rafer | | |
| Application No. 11/831,770 | : | DECISION ON PETITION |
| Filed: July 31, 2007 | : | PURSUANT TO 37 C.F.R. |
| Attorney Docket Number: | : | § 1.47(A) |
| 08226/0206220-US0 | : | |
| Title: COMMENT FACES | : | |
| | : | |

This is in response to the petition under 37 C.F.R. § 1.47(a)[1], filed October 15, 2007.

The petition 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 July 31, 2007, the application was filed, identifying Todd Sampson, John Sampson, Steve Ho, Eric Marcoullier, and Neil Scott Rafer as joint inventors. The application was deposited without an executed oath or declaration. On August 13, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the present petition, Petitioner has included, *inter alia*, a declaration that has been signed by each of the joint inventors save Mr. Marcoullier, the fee that is associated with the late submission of the same, and the petition fee. It is noted that October 13, 2007 fell on a Saturday.

Petitioner has asserted that non-signing inventor Marcoullier has refused to sign the declaration, and that a complete copy of the application has been sent to the last-known address of this individual.

With this petition, Petitioner has met requirements (1) - (4) of Rule § 1.47(a).

Regarding the fifth requirement of Rule §1.47(a), the declaration that was submitted concurrently with the present petition cannot be accepted, as it contains a non-dated change by inventor Rafer[2].

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[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

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2 See 37 C.F.R. § 1.52(c)(1) and MPEP § 605.04(a).
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

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[7].

Paul Shanoski
Senior Attorney
Office of Petitions

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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

Yahoo! Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

**COPY MAILED**

FEB 19 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of<br>Todd Sampson, John Sampson,<br>Steve Ho, Eric Marcoullier, and<br>Neil Scott Rafer<br>Application No. 11/831,770<br>Filed: July 31, 2007<br>Attorney Docket Number:<br>08226/0206220-US0<br>Title: COMMENT FACES | DECISION ON PETITION<br>PURSUANT TO 37 C.F.R.<br>§ 1.47(A) |

This is in response to the renewed petition under 37 C.F.R. § 1.47(a)[1], filed January 4, 2008.

The petition is **GRANTED**.

On July 31, 2007, the application was filed, identifying Todd Sampson, John Sampson, Steve Ho, Eric Marcoullier, and Neil Scott Rafer as joint inventors. The application was deposited without

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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.

an executed oath or declaration. On August 13, 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 October 15, 2007, which was dismissed via the mailing of a decision on December 21, 2007, for failing to include an acceptable declaration.

With this renewed petition, Petitioner has included a declaration that has been properly executed by inventor Rafer.

Petitioner has met all requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, the 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 this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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[2]. All other inquiries regarding the status of this decision should be directed to the Technology Center.

/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.

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FEB 19 2008

**OFFICE OF PETITIONS**

Eric Marcoullier
1683 27th Ave.
San Francisco, CA 94122

| | |
|---|---|
| In re Application of<br>Todd Sampson, John Sampson,<br>Steve Ho, Eric Marcoullier, and<br>Neil Scott Rafer<br>Application No. 11/831,770<br>Filed: July 31, 2007<br>Attorney Docket Number:<br>08226/0206220-US0<br>Title: COMMENT FACES | DECISION ON PETITION<br>PURSUANT TO 37 C.F.R.<br>§ 1.47(A) |

Dear Mr. Marcoullier:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Yahoo! Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,771 | 07/31/2007 | Joel Myerson | 10051412-1 | 4956 |

7590 01/08/2010
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER |
|---|
| RILEY, JEZIA |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1637 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/08/2010 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Registered date: 01/07/2010 NFARMER
07/01/2007 INTERCO 00003301 501078 11831771
02 FC:1111 500.00 CR
04 FC:1202 700.00 CR
05 FC:1201 1200.00 CR



FORM PET651G (Rev. 08/07)

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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
JUN 17 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Daniel Edward Herington | : | |
| Application No. 11/831790 | : | |
| Filing or 371(c) Date: 07/31/2007 | : | ON PETITION |
| Attorney Docket Number: | : | |
| 200701666-1 | : | |

This is a decision on the Petition Under 37 CFR 1.137(b), filed March 16, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 23, 2009. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on October 24, 2009. A Notice of Abandonment was mailed February 22, 2010.

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 (previously submitted); and (3) the required statement of unintentional delay (previously submitted). Accordingly, the reply is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 2458 for processing of the Amendment 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

CC: Koestner Bertani LLP
18662 MacArthur Blvd Ste 400
Irvine, CA 92612

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SAP_DLG
7910 IVANHOE AVE.
# 325
LA JOLLA, CA 92037

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Paul N. Weinberg | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7672942 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/831,793 | : OF WYETH |
| **Filed** | : 07/31/2007 | : |
| | | : |

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.

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FSI
c/o JACKSON WALKER, LLP
100 CONGRESS AVENUE
SUITE 1100
AUSTIN TX 78701

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JAN 03 2008

**OFFICE OF PETITIONS**

In re Application of
Thuy B. Dao et al.
Application No. 11/831,801
Filed: July 31, 2007
Attorney Docket No. MT10644TP
(130704.00003)

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 10, 2007, and supplemented December 12, 2007, under 37 CFR 1.47(a).

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

The above-identified application was filed on July 31, 2007, without an oath or declaration not fully executed by all of the joint inventors. Accordingly, on August 10, 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 two month extention of time request was filed arguing that after diligent effort, joint inventors Voon-Yew Thean and Bruce While are not able or refuse to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or 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 to and received by both Mr. Thean and Mr. White 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/831,813 | 07/31/2007 | Lee E. Jackson | 2506.3537.1US | 5018 |

24247 7590 11/12/2009
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

| EXAMINER |
|---|
| LI, BAO Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1648 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/12/2009 | ELECTRONIC |

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

Commissioner for Patents
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www.uspto.gov

NOV 1 2 2009

Brick G. Power
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

| | |
|---|---|
| In re Application of | : |
| Jackson et al. | : |
| Serial No.: 11/831,813 | :DECISION ON PETITION |
| Filed: 31 July 2007 | : |
| Attorney Docket No.: 2506-3537.1US | : |

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 10 September 2009 requesting review and withdrawal of the restriction requirement mailed 9 February 2009.

**BACKGROUND**

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 31 July 2008, the examiner mailed a first restriction requirement in which the claims 1-22 were divided into 3 groups.

On 31 December 2008, Applicants elected Group I, claims 1-5 and 20-22.

On 9 February 2009, the examiner mailed a second restriction requirement in which the claims 1-5 and 20-36 of Group I were further divided into 10 groups. The examiner also required an election of species.

On 11 March 2009, Applicants elected Group V and the species *Thiobacillus*, with traverse.

On 10 June 2009, the examiner mailed to applicants a non-final Office action, in which the examiner considered the traversal and made the restriction requirement FINAL. Claims 20-26, 28-36 were withdrawn from consideration. Claims 1-5 and 27 were examined. The following grounds of rejection were applied:

Claim 4 was provisionally rejected under the grounds of non-statutory double patenting over claims 6, 70 and 75 of co-pending Application 11/033,022.

Claims 1-5 and 27 were rejected under 35 U.S.C. § 112, first paragraph, for lack of adequate written description over the biological deposit;

Several rejections of Claims 1-4 were made under 35 U.S.C. § 102.

On 10 September 2009, applicants filed a response to the Office action along with this petition under consideration.

On 28 October 2009, applicants filed an Information Disclosure Statement.

**DISCUSSION**

The petition and file history have been carefully considered. Applicants are correct that the second restriction requirement mailed 9 February 2009 is improper, as set forth below.

MPEP 806 states:

> (C) Where inventions are related as disclosed but are not distinct as claimed, restriction is never proper.

MPEP 806.01 states:

> In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence.

MPEP 806.03 states:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

MPEP 814 directs the examiner to indicate exactly how an application is to be restricted.

> The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01....
>
> In setting forth the restriction requirement, separate inventions should be identified by a grouping of the claims with a short description of the total extent of the invention claimed in each group, specifying the type or relationship of each group as by stating the group is

drawn to a process, or to a subcombination, or to a product, etc., and should indicate the classification or separate status of each group, as for example, by class and subclass. See MPEP § 817 for additional guidance.

In the second restriction, the claims were mis-grouped, as follows.

Claims 29 and 33 both read upon a composition comprising a virus-resistant variation of a beneficial micro-organism that controls the proliferation, spread or population of an insect population. Claim 29 was placed in Group VII.

1. (Original) A composition for controlling a population of a beneficial microorganism, comprising a virus-resistant variation of the beneficial microorganism.

29. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism controls the proliferation or spread of an insect population.

However, Claims 32-33 were placed in Group VIII. Because claim 29 and 33 encompass the same embodiment, Groups VII and VIII are not patentably distinct.

32. (Withdrawn) A composition, comprising a virus-resistant strain of a beneficial microorganism that controls a population of at least one undesirable organism.

33. (Withdrawn) The composition of claim 32, wherein the beneficial microorganism controls a population of at least one fungus or of at least one insect.

Claims 24 and 35 both read upon a composition comprising a virus-resistant variation of a beneficial microorganism that oxidizes a sulfide. Claim 24 was placed in Group II.

24. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism oxidizes a sulfide to form sulfuric acid.

However, claims 34 and 35 were placed in Group IX. Because Claims 24 and 35 encompass the same embodiment, Groups II and IX are not patentably distinct.

34. (Withdrawn) A composition, comprising a virus-resistant strain of a beneficial microorganism that beneficially metabolizes at least one material in a manner that facilitates the release of a substance from a substrate.

35. (Withdrawn) The composition of claim 34, wherein the beneficial microorganism oxidizes a sulfide.

Claims 26 and 36 both read upon a composition comprising a virus-resistant variation of a beneficial microorganism that acidified sulfur or a sulfur containing material. Claim 26 was placed in Group IV.

26. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism acidifies sulfur or a sulfur-containing material.

However, claims 34, 35 and 36 were placed in Group IX. Because Claims 26 and 36 encompass the same embodiment, Groups IV and IX are not patentably distinct.

36. (Withdrawn) The composition of claim 34, wherein the beneficial microorganism acidifies sulfur or a sulfur-containing material.

Claims 28 and 33 both read upon a composition comprising a virus-resistant variation of a beneficial microorganism that controls the growth or population of fungus. Claim 28 was placed in Group VI.

28. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism controls the growth of fungi.

However, claims 32-33 were placed in Group VIII. Because Claims 28 and 33 encompass the same embodiment, Groups VI and VIII are not patentably distinct.

33. (Withdrawn) The composition of claim 32, wherein the beneficial microorganism controls a population of at least one fungus or of at least one insect.

Claims 24-27 which are placed in Groups I-V, respectively, are all encompassed by Claim 34, which is placed in Group IX.

24. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism oxidizes a sulfide to form sulfuric acid.

25. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism leaches a mineral from a low-grade ore.

26. (Withdrawn) The composition of claim 1, wherein the beneficial microorganism acidifies sulfur or a sulfur-containing material.

27. (Previously presented) The composition of claim 1, wherein the beneficial microorganism facilitates the release of at least one of petroleum and a petroleum-related substance from shale.

Claim 34 was placed in Group IX. For this reason, Groups I-V and IX are not patentably distinct.

34. (Withdrawn) A composition, comprising a virus-resistant strain of a beneficial microorganism that beneficially metabolizes at least one material in a manner that facilitates the release of a substance from a substrate.

Similarly, Claim 3, which the examiner had indicated as linking Groups I-IX, reads upon the same limitation of h-mutant virus as Claim 20 of Group X. For this reason, distinction is lacking between Groups I-IX and X.

3. (Original) The composition of claim 1, wherein the virus-resistant variation comprises resistance to an h-mutant virus specific for the beneficial microorganism.

20. (Withdrawn) A composition for controlling populations on food products of a microorganism that is pathogenic to a mammal, comprising an h-mutant virus specific for and capable of infecting a virus-resistant variation of a target strain of the microorganism.

**DECISION**

The petition is **GRANTED** for the reasons set forth above.

The restriction requirement mailed 9 February 2009 which divided the claims of original Group I into Groups I-X is hereby withdrawn.

The Office action mailed 10 June 2009 is incomplete for not addressing all the claims directed to Groups I-X on the merits.

**The application will be forwarded to the examiner for consideration of the papers filed 10 September 2009 and 28 October 2009 and for preparation of a non-final Office action consistent with this decision, which addresses all claims of rejoined Groups I-X reading upon the elected species on the merits.**

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED
JUN 17 2008

| | |
|---|---|
| In re Application of | : |
| Zeilingold et al. | : |
| Application No. 11/831879 | : DECISION ON PETITION |
| Filed: 07/31/2007 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. 061887 | : |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to two prior-filed provisional applications.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on July 31, 2007, within twelve months of the filing date of the prior-filed provisional applications, Application Nos. 60/843,344 and 60/843,793, which were filed on September 7, 2006, and September 11, 2006, respectively, and for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application

after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1,410.00 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No. 17-0026.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

RECEIVED
DEC 31 2008
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| | | |
|---|---|---|
| In re Application of | : | |
| Zeilingold et al. | : | |
| Application No. 11/831879 | : | DECISION ON PETITION |
| Filed: 07/31/2007 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. 061887 | : | |

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed on October 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications 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 applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

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 applications 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 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, 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 2617 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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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 |
|---|---|---|---|---|---|---|
| 11/831,879 | 07/31/2007 | 2617 | 2530 | 061887 | 40 | 5 |

**CONFIRMATION NO. 5097**

**CORRECTED FILING RECEIPT**

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

*OC000000033833086*

Date Mailed: 12/31/2008

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)**

Daphna Zeilingold, San Diego, CA;
Philippe Bergman, San Diego, CA;
Sapna Mehta, San Diego, CA;
Vandana Gopal, San Diego, CA;
Wilfred Sakai, Poway, CA;
Lawrence Alldredge, La Jolla, CA;
Drew Kerwin, San Diego, CA;
Daniel A. Deninger, Carlsbad, CA;

**Assignment For Published Patent Application**

QUALCOMM INCORPORATED, San Diego, CA

**Power of Attorney:** The patent practitioners associated with Customer Number 23696

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/843,344 09/07/2006
and claims benefit of 60/843,793 09/11/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/831,879**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

SYSTEM AND METHODS FOR REMOTELY UPGRADING SOFTWARE APPLICATIONS

**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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AUG 23 2007

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

| | |
|---|---|
| In re Application of | : |
| Yu-Hung Chiu et al | : DECISION ON PETITION TO MAKE |
| Serial No.: 11/831,886 | : SPECIAL FOR NEW APPLICATION |
| Filed: July 31, 2007 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: 067345-5002-US | : § 708.02 |

This is a decision on the petition filed July 31, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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

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

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

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APR 16 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Dave Koberstein et al. | : | |
| Application No. 11/831,889 | : | DECISION ON |
| Filed: July 31, 2007 | : | PETITION TO WITHDRAW |
| Attorney Docket No. 026746-000110US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 15, 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 Richard T. Ogawa on behalf of attorney/agents associated with customer number 20350. All attorneys/agents associated with customer number 20350.

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

The correspondence address has been changed. All future correspondence will be mailed to the address of the assignee.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dave Koberstein
Tribal Shout!, Inc.
1300 Ernestine Lane
Mountain View, CA 94040

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/831,889 | 07/31/2007 | Dave Koberstein | 026746-000110US |

**CONFIRMATION NO. 5110**

**POWER OF ATTORNEY NOTICE**

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

*OC000000035511528*

Date Mailed: 04/16/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/15/2009.

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

/kainabinet/

---

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

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of
Allan G. Hee, et al.
Application No. 11/831,896
Filed: July 31, 2007
Attorney Docket No.: T-6907

ON PETITION

This is a decision in response to the petition, filed March 29, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 11, 2009. A Notice of Abandonment was mailed December 28, 2009. On March 29, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the 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 1797 for appropriate action by the Examiner in the normal course of business on the reply received March 29, 2010.

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

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APR 16 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Dave Koberstein et al. | : | |
| Application No. 11/831,898 | : | DECISION ON |
| Filed: July 31, 2007 | : | PETITION TO WITHDRAW |
| Attorney Docket No. 026746-000120US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 15, 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 Richard T. Ogawa on behalf of attorney/agents associated with customer number 20350. All attorneys/agents associated with customer number 20350.

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

The correspondence address has been changed. All future correspondence will be mailed to the address of the assignee.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dave Koberstein
Tribal Shout!, Inc.
1300 Ernestine Lane
Mountain View, CA 94040

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/831,898 | 07/31/2007 | Dave Koberstein | 026746-000120US |

**CONFIRMATION NO. 5123**

**POWER OF ATTORNEY NOTICE**

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

*OC000000035511535*

Date Mailed: 04/16/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/15/2009.

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

/kainabinet/

---

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

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

**MAILED**

MAY 20 2010

**OFFICE OF PETITIONS**

In re Application of
Thierry R. Scholier et al.
Application No. 11/831,910
Filed: July 31, 2007
Attorney Docket No: T-6850

ON PETITION

This is a decision on the petition filed March 30, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 27, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned July 28, 2009. Accordingly, a Notice of Abandonment was mailed November 24, 2009.

This matter is being referred to Technology Center 1797 for appropriate action on the amendment filed March 30, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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PAUL TERRANCE NOLAN
135 Sierra Vista Rd.
Montecito, CA 93108

AUG 16 2007

In re Application of:
NOLAN *et al.*
Serial No.: 11/831,946
Filed: July 31, 2007
Title: **VARIABLE ENVIRONMENT, SCALE-ABLE, ROLL TO ROLL PROCESS/APPARATUS FOR MANUFACTURING THIN FILM ELECTRONICS ON FLEXIBLE SUBSTRATES**

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

This is a decision on the petition filed on July 31, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers on August 02, 2007, is evidence that the application was not complete and in condition for examination at the time of filing.

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 Clayton E. LaBalle, TQAS, at (571) 272-1594.

Clayton E. LaBalle, TQAS
Technology Center 2800

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glm

9-4-07

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|---|---|---|
| In re application of<br>Nolan et al.<br>Serial No. 11/831,946<br>Filed: July 31, 2007<br>For: VARIABLE ENVIRONMENT, SCALE-ABLE, ROLL TO ROLL PROCESS/APPARATUS FOR MANUFACTURING THIN FILM ELECTRONICS ON FLEXIBLE SUBSTRATES | : | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the petition filed on July 31, 2007 to make the above-identified application special under the accelerated examination program.

The previous decision mailed August 16, 2007 was based on the Notice to File Corrected Application Papers, which was withdrawn on August 14, 2007. Accordingly, the decision mailed August 16, 2007 is hereby **VACATED**.

With this decision, the petition to make the application special is **DISMISSED.**

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

under 35 USC 112, first paragraph, in each such application in which such supports exists;

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

## DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-4) are considered to have been met. However, the petition fails to comply with section II, subsections 5 and 6.

First, it appears that the search (section II, subsection 5.1) is incomplete. A search in the following classes and subclasses is required: 118/718 (where the application is classified for examination); and 118/33,50; 427/171-172, 177, 255.5; 204/298.23-298.24, to cover the full breadth of the claimed invention.

Also, while the examination support document includes a general description of each of the cited references, it does not specifically point out where in each reference all the limitations in the claims that are disclosed by that reference can be found (section II, subsection 6.2). Applicants should specify where in each of the cited references the particular claim limitations are found.

Also, the detailed explanation of patentability is overly general and lacks the necessary specificity (section II, subsection 6.3). Applicants should be specific in their explanation and include the identification of *specific claim limitations* that define over the cited references.

Also, the showing of support (section II, subsection 6.5) is likewise overly general and lacks the necessary specificity. The showing should specify where *each limitation* of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the instant specification. Further, since this application claims the benefit of provisional application 60/850,760, there must also be a showing of where each claim limitation finds support in the provisional application (60/850,76) (also section II, item 6.5).

Additionally, the examination support document states 'the sole claim invokes 35 USC 112, sixth paragraph' but that does not appear to be the case. No means-plus-function language appears to be present in the claims. If such language were to be present, then the examination support document would have to identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph.

Finally, the examination support document states 'all of the cited references are disqualified as prior art under 35 USC 103(c)' but that does not appear to be the case. The cited references do not appear to be commonly owned with the instant invention and would thus not be disqualified as prior art under 35 USC 103(c).

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

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

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

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

Any inquiry regarding this decision should be directed to Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

PAUL TERRANCE NOLAN
135 SIERRA VISTA RD.
MONTECITO CA 93108

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10-3-07

| | | |
|---|---|---|
| In re application of<br>Nolan et al.<br>Serial No. 11/831,946<br>Filed: July 31, 2007<br>For: VARIABLE ENVIRONMENT, SCALE-ABLE, ROLL TO ROLL PROCESS/APPARATUS FOR MANUFACTURING THIN FILM ELECTRONICS ON FLEXIBLE SUBSTRATES | : | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the RESPONSE TO THE DISMISSAL DECISION ON PETITION TO MAKE SPECIAL filed on September 26, 2007 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

As the previously noted defects have been adequately corrected by the renewed petition and accompanying documents, the petition to make the application special is **GRANTED.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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

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

Any inquiry regarding this decision should be directed to Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

PAUL TERRANCE NOLAN
135 SIERRA VISTA RD.
MONTECITO CA 93108

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,023 | 08/01/2007 | Patrick Lhoyer | 007035.00104 | 5345 |

7590 10/27/2008
BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 3751 | |

| 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

Adjustment date: 10/27/2008 NFARMER
10/15/2007 INTEFSW 00005633 190733 11832023
02 FC:1111 510.00 CR



FORM PET651G (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,044 | 08/01/2007 | Robert Dallas Ricker | 10060727-01 | 5392 |

7590 11/27/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER |
|---|
| COMINGS, DANIEL C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3744 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/27/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Keerthinarayan P. Heragu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7573307 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/832,045 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/17/2010

**Applicant** : Keerthinarayan P. Heragu
**Patent Number** : 7573307
**Issue Date** : 08/11/2009
**Application No** : 11/832,045
**Filed** : 08/01/2007

: 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 **84** 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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**BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC**
**P.O. BOX 381146**
**BIRMINGHAM AL 35238**

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|---|---|---|
| In re Application of | : | |
| W. Howard Ayers, Jr. | : | |
| Application No. 11/832,082 | : | DECISION ON PETITION |
| Filed: August 1, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. ayers 7 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant 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

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,092 | 08/01/2007 | Kentaro Yamamoto | 1033228-000153 | 5498 |

7590 03/24/2009
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

| EXAMINER |
|---|
| WILLIAMS, THOMAS J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3657 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/24/2009 | 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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
03/23/2009 0030068003

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1006

Adjustment date: 03/23/2009 NFARMER
08/01/2007 INTEFSW 00000046 11832092
02 FC:1111 -500.00 OP



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,173 | 08/01/2007 | Lance E. Steward | 17311CIP2 (BOT) | 5635 |

7590 08/28/2008

Dean G. Stathakis
Allergan, Inc. -T2-7H
2525 Dupont Drive
Irvine, CA 92612

| EXAMINER |
|---|
| KAM, CHIH MIN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1656 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/28/2008 | PAPER |

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

*The declaration of express abandonment will not be recognized*

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

The petition is dismissed.

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

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651D (Rev. 08/07)

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OFFICE OF PETITIONS

**HAYNES BEFFEL & WOLFELD LLP**
**P.O. BOX 366**
**HALF MOON BAY CA 94019**

| | | |
|---|---|---|
| In re Patent No. | : | |
| Albert W. Wegener | : | |
| Application No. 11/832,182 | : | NOTICE |
| Filed: August 1, 2007 | : | |
| Attorney Docket No. SMPL 1005-2 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on January 27, 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.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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AUG 0 8 2008

In re Application of Goldman et al. :
Application No. 11/832,201 : Decision on Petition
Filing Date: August 1, 2007 :
Attorney Docket No. T4339-14282US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 7, 2008, to revive the instant 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 Application (Notice) mailed August 15, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 16, 2007. A Notice of Abandonment was mailed on April 25, 2008.

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.

Requirement (1) has been met. Petitioner has filed an executed declaration and the applicable surcharge.

Requirement (2) has been met. Petitioner has submitted the $770 petition fee.

Requirement (3) has been met. 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.

Attorney Mark Catan signed the petition. Attorney Catan was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Catan may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Catan that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay 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.

Requirement (4) has been met in so far as submission of a terminal disclaimer is unnecessary.

Since the requirements of 37 CFR 1.137(b) have been met, the application is hereby revived.

The Office of Patent Application Processing will be informed of the instant decision and will take steps to prepare the application 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

[1] 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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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**MCLEAN, VA 22102-3833**

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MAY 18 2009

**OFFICE OF PETITIONS**

In re Application of :
Arnold J. GOLDMAN, et al :
Application No. 11/832,201 : DECISION ON PETITION
Filed: August 1, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. T4339-14282US01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 30, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by Applicant Arnold Goldman. 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 at 571-272-1700.

The application is being forwarded to Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**
**1940 DUKE STREET**
**ALEXANDRIA, VA 22314**

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MAY 01 2009

OFFICE OF PETITIONS

In re Application of
**Eiji KITAGAWA, et al.**
Application No. 11/832,203
Filed: August 1, 2007
Attorney Docket No. **312962US2SRD**

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 April 30, 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 March 26, 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 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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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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TECHNOLOGY CENTER 3600

Osler, Hoskin, & Harcourt LLP (BRP)
2100-1000 De La Gauchetiere St. West
Montreal, CA H3B4W-5

In re application of
Rene Lemieux et al.
Application No. 11/832,232
Filed: August 1, 2007
For: SKAG HAVING ANGLED ATTACHMENT STUDS

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

This is a decision on the petition filed on August 1, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The petition in this case fails to comply with conditions II.5.2, II.5.3 and II.6.5, above.

As to condition II.5.2 and II.5.3, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims or disclosed features that may be claimed. Specifically, with respect to the text search of the US Patents database, the petition lacks sufficiently specific search logic. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Furthermore, a sample of search logic to be used in this application is provided below:

ski same (wear adj (bar or rail)),ski and ((skag or (wear adj (bar or rail))) same ( bolt or stud).

This sample search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example for applicant's assistance. Also, the search focuses on the term "skag" while the prior art uses various expressions to describe the wear structure on the bottom of the ski. The search would be more complete if it included "wear bar" or "wear rail" since the prior art often uses these terms to describe the entire bar/skag structure without specifically mentioning "skag".

As to the classification search, class 280, subclasses 16, 21.1, and 845 should also be searched.

As to condition II.6.5, the support under 35 USC 112, 1st paragraph, for each limitation of each claim must be shown by its specific location in the specification (page, line numbers) of each parent application 11/609,541, 11/349,256 and 60/651,144. If the parent applications have identical specifications and therefore identical page and line numbers, that should be so stated. Otherwise, the specific page and line numbers of each claim limitation for each application must be stated.

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

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Kenneth J. Dorner at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

Kjd: 8/28/07

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Osler, Hoskin & Harcourt LLP (BRP)
2100-1000 De La Gauchetiere St. West
Montreal, H3B4W-5 CA Canada

In re Application of:
Rene Lemieux et al
Serial No.: 11/832,232
Filed: August 1, 2007

Title: SKAG HAVING ANGLED ATTACHMENT STUDS

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

This is a decision on the renewed petition filed on October 9, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is GRANTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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

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

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner Special Program Examiner
Technology Center 3600

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**SONNENSCHEIN NATH & ROSENTHAL LLP**
**P.O. BOX 061080**
**WACKER DRIVE STATION, SEARS TOWER**
**CHICAGO IL 60606-1080**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Makoto Chiyoda, et al. | : | |
| Application No. 11/832,247 | : | DECISION GRANTING PETITION |
| Filed: August 1, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 09792909-7026 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on July 30, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
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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MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gary A. Lipczynski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7611314 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/832,269 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

*In re* Application of:
HOOPER, BRYAN et al
Serial No.: 11/832,281
Filed: Aug. 1, 2007
Docket: 312948US64
Title: FOG-RESISTANT GOGGLES

DECISION ON PETITION
UNDER 37 CFR 1.91

This is a decision on the petition for request entry of exhibit filed under 37 CFR 1.91.

The petition filed on June 11, 2009 requests entry of exhibit, Elmo doll, filed under 37 CFR 1.91[1] and includes the required petition and the required fees as set forth in 37 CFR 1.17(h). The petition fee of $130.00 was paid in accordance with 37 CFR 1.17(h).

The request to enter the exhibit and the petition comply with the requirements as set forth in 37 CFR 1.91. Accordingly, the requested entry of the exhibit in the file record is granted. Currently, the exhibit has been placed in a separate artifact file.

The application is being forwarded to the examiner for consideration of the exhibit, goggles, filed on June 11, 2009. Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is **granted**.

Robert Olszewski, Director
Technology Center 3700

[1] § 1.91 Models or exhibits not generally admitted as part of application or patent. (a) A model or exhibit will not be admitted as part of the record of an application unless it: (1) Substantially conforms to the requirements of § 1.52 or § 1.84; (2) Is specifically required by the Office; or (3) Is filed with a petition under this section including: (i) The fee set forth in § 1.17(h); and (ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability. (b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application. (c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

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Alexandria, VA 22313-1450
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**WHYTE HIRSCHBOECK DUDEK S.C.**
**INTELLECTUAL PROPERTY DEPARTMENT**
**33 EAST MAIN STREET, SUITE 300**
**MADISON WI 53703-4655**

MAILED

JUL 14 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert A. Peterson | : | DECISION ON PETITION |
| Application No. 11/832,288 | : | TO WITHDRAW |
| Filed: August 1, 2007 | : | FROM RECORD |
| Attorney Docket No. AHI-34052 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2010.

The request is **APPROVED**.

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

The request was signed by Julie A. Zavoral on behalf of all attorneys of record who are associated with Customer No. 56080.

All attorneys/agents associated with Customer Number 56080 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 June 24, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert A. Peterson, Jr.
32 N. Bassett Street
Madison, WI 53703

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OCT 23 2009

OFFICE OF PETITIONS

**GOODWIN PROCTER LLP**
**ATTN: PATENT ADMINISTRATOR**
**135 COMMONWEALTH DRIVE**
**MENLO PARK, CA 94025-1105**

| | | |
|---|---|---|
| In re Application of | : | |
| Peter Kuebler | : | DECISION ON PETITION |
| Application No. 11/832,291 | : | TO WITHDRAW |
| Filed: August 1, 2007 | : | FROM RECORD |
| Attorney Docket No. 39766-0259R1 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Goodwin Procter LLP was revoked by the assignee of the patent application on September 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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 |
|---|---|---|---|
| 11/832,291 | 08/01/2007 | Peter Kuebler | 146392007600 |

**CONFIRMATION NO. 5843**

**POA ACCEPTANCE LETTER**

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

*OC000000038401622*

Date Mailed: 10/21/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/832,291 | 08/01/2007 | Peter Kuebler | 146392007600 |

**CONFIRMATION NO. 5843**

**POWER OF ATTORNEY NOTICE**

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

*OC000000038401589*

Date Mailed: 10/21/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2009.

- 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).

/atkelley/

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

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**MAILED**

MAR 05 2010

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

| | | |
|---|---|---|
| In re Application of | : | |
| Robert A. Latta et al | : | |
| Application No. 11/832,293 | : | ON PETITION |
| Filed: August 1, 2007 | : | |
| Attorney Docket No. 1655.001US2 | : | |

This is a decision on the "Petition for Change the Order of Inventors' Names" under 37 CFR 1.182 filed November 16, 2009.

The petition is **GRANTED.**

The order of the names of the inventors has been changed to the following:

1. Robert A. Latta Jr.
2. Thomas Anthony Lenaghan
3. Brian Copeland
4. Gregory Scott Coil

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

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

Irvin Dingle
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 |
|---|---|---|---|---|---|---|
| 11/832,293 | 08/01/2007 | 3743 | 1100 | 1655.001US2 | 22 | 2 |

**CONFIRMATION NO. 5845**

**CORRECTED FILING RECEIPT**

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

*OC000000040400761*

Date Mailed: 03/04/2010

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)**

Robert A. Latta JR., Edina, MN;
Thomas Anthony Lenaghan, Nevada, IA;
Brian Copeland, Pheonix, AZ;
Gregory Scott Coil, Hartland, MN;

**Assignment For Published Patent Application**

Harris Contracting Company, St. Paul, MN
Alliant Energy Corporate Services, Inc., Cedar Rapids, IA
Von Roll, Inc., Norcross, GA

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/373,668 02/24/2003 PAT 7,263,934

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/832,293**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

SYSTEMS FOR GENERATING ENERGY USING AGRICULTURAL BIOFUEL

**Preliminary Class**

110

## 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 07/21/2010

| | | |
|---|---|---|
| **Applicant** | : Il-kwon KANG | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657207 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/832,341 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/01/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 08 2008

Edmund J. Sease
McKee, Voorhees & Sease, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721

| | | |
|---|---|---|
| In re Application of: | : | **DECISION ON PETITION** |
| Scott A. Schick | : | **UNDER 37 CFR 1.181** |
| Application No. 11/832,348 | : | |
| Filed: August 1, 2007 | : | |
| Attorney Docket No.: P08042US00 | : | |
| For: NEW MOWER DECK ENHANCEMENT | : | |

This is in response to applicants' petition under 37 CFR 1.181 filed October 08, 2008 requesting withdrawal of the finality of the Office action mailed September 11, 2008 as being premature.

The Petition is **GRANTED.**

Applicant alleges that the final rejection mailed September 11, 2008 is premature because the examiner relies upon an entirely new primary reference, Ishimori et al. U.S. Patent No. 6,038,840, cited for the first time in the Final rejection. Applicant further alleges that the only amendment to claim 1 was for clarity purposes and that applicant only argued that the primary reference Samejimi, used in the first office action mailed March 19, 2008 was missing a critical limitation. Applicant alleges that the new grounds of rejection in the final rejection is is unfair and unreasonable since applicant only amended claim 1 for clarity reasons and only argued a limitation as distinguishing the Samejima reference, which limitation was already in the claims i.e., baffle throat positioned to direct air flow in a common direction. Applicant alleges that if the examiner was going to cite Ishimori et al. for the proposition of a baffle throat positioned to direct air flow in a common direction, this reference should have been used in the first office action and not the final rejection, thereby allowing the applicant a chance to respond to the rejection without the strict limitations inherent in replying to a final rejection.

A review of the record reveals that the amendments made by applicant in response to the first office action did not substantially change what was being claimed when compared to the claims as original filed and it appears that the examiner could have maintained the original rejection using the Samejima reference. Therefor since the examiner instead applied a new rejection using the Ishimori reference, the Final was in fact premature since the new rejection was not necessitated by amendment and the petition is GRANTED.

Frederick Schmidt, Director
Patent Technology Center 3600

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

APR 09 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Tomoyuki Ikeda | : | |
| Application No. 11/832,378 | : | DECISION GRANTING PETITION |
| Filed: August 1, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 312414US40DIV | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 9, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on March 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3729 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,382 | 08/01/2007 | Akiteru KO | ES-134 | 5997 |

69792 7590 04/09/2010
Tokyo Electron U.S. Holdings, Inc.
4350 West Chandler Blvd.
Suite 10/11
Chandler, AZ 85226

| EXAMINER |
|---|
| ANGADI, MAKI A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1713 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/09/2010 | 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):

TEHIPDocket@us.tel.com
Andrej.Mitrovic@us.tel.com
Melody.Hillman@us.tel.com

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Tokyo Electron U.S. Holdings, Inc.
4350 West Chandler Blvd.
Suite 10/11
Chandler AZ 85226

Applicant: Ko et al.
Appl. No.: 11/832,382
Filing Date: August 1, 2007
Title: METHOD FOR ETCHING METAL NITRIDE WITH HIGH SELECTIVITY TO OTHER MATERIALS
Attorney Docket No.: ES-134
Pub. No.: US 2009/0032495 A1
Pub. Date: February 5, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on April 5, 2010, 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 and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 04/09/2010 KKING1
04/06/2010 INTEFSW 00005843 503451 11832382
01 FC:1504 300.00 CR

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,382 | 08/01/2007 | Akiteru KO | ES-134 | 5997 |

69792 7590 04/16/2010
Tokyo Electron U.S. Holdings, Inc.
4350 West Chandler Blvd.
Suite 10/11
Chandler, AZ 85226

| EXAMINER |
|---|
| ANGADI, MAKI A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1713 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/16/2010 | 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):

TEHIPDocket@us.tel.com
Andrej.Mitrovic@us.tel.com
Melody.Hillman@us.tel.com

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Tokyo Electron U.S. Holdings, Inc.
4350 West Chandler Blvd.
Suite 10/11
Chandler AZ 85226

Applicant: Ko et al.
Appl. No.: 11/832,382
Filing Date: August 1, 2007
Title: METHOD FOR ETCHING METAL NITRIDE WITH HIGH SELECTIVITY TO OTHER MATERIALS
Attorney Docket No.: ES-134
Pub. No.: US 2009/0032495 A1
Pub. Date: February 5, 2009

This is a decision on the second request for republication of patent application publication under 37 CFR 1.221(a), filed on April 13, 2010, 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**. In addition, the Applicant did not provide a copy of the application for publication purposes. 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 and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following

website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 04/19/2010 KKING1
04/13/2010 INTEFSW 00009508 503451 11832382
02 FC:1505 300.00 CR

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United States Patent and Trademark Office
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NOV 12 2009

OFFICE OF PETITIONS

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

| | | |
|---|---|---|
| In re Application of | : | |
| Jay Lichtenstein et al | : | |
| Application No. 11/832,407 | : | DECISION ON PETITION |
| Filed: August 1, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 21509-003001 | : | FROM RECORD |
| | : | |

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

The request is **APPROVED**.

The request was signed by Timothy French on behalf of all the practitioners of record.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Jay Lichtenstein
26 Roosevelt Way
Robbinsville, NJ 08691

cc: Timothy A. French
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

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 |
|---|---|---|---|
| 11/832,407 | 08/01/2007 | Jay Lichtenstein | 21509-003001 |

**CONFIRMATION NO. 6041**

**POA ACCEPTANCE LETTER**

Jay Lichtenstein
26 Roosevelt Way
Robbinsville, NJ 08691

*OC000000038682940*

Date Mailed: 11/12/2009

## 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

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 |
|---|---|---|---|
| 11/832,407 | 08/01/2007 | Jay Lichtenstein | 21509-003001 |

**CONFIRMATION NO. 6041**

**POWER OF ATTORNEY NOTICE**

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

*OC000000038682869*

Date Mailed: 11/12/2009

## 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

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VIVACQUA LAW, PLLC
455 EAST EISENHOWER PARKWAY, SUITE 200
ANN ARBOR MI 48108

**MAILED**

JUN 14 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Andrew W. Phillips et al.
Application No. 11/832,438
Filed: August 1, 2007
Attorney Docket No: P000350-PTT-DLT

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 25, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned December 29, 2009. Accordingly, a Notice of Abandonment was mailed May 7, 2010.

This matter is being referred to Technology Center 3655 for appropriate action on the amendment filed May 17, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

**COPY MAILED**

JUL 20 2009

**OFFICE OF PETITIONS**

In re Application of
Markus Buck et al
Application No. 11/832,445
Filed: August 1, 2007
Attorney Docket No. 11336-1683 (P06131US)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED.**

The request was signed by James A. Collins on behalf of all attorneys / agents who are associated with customer No. 81166.

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

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

All future correspondence will be directed to the first named inventor Markus Buck at the first address indicated below. Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Markus Buck
Geschwister – Rommer – Wag 4
Biberach, Germany 88400

cc: Adil M. Musabji by Rebecca Brown
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,462 | 08/01/2007 | Takeshi Naganuma | 16359-076001 / 1250/KK | 6124 |

7590 11/05/2008
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

| EXAMINER |
|---|
| BARRON JR, GILBERTO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/05/2008 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/04/2008 NFARMER
11/20/2007 VVAN11 00000027 061050 11832462
02 FC:1111 510.00 CR



FORM PET651G (Rev. 08/07)

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**MARGER JOHNSON & MCCOLLOM, P.C.**
**210 SW MORRISON STREET, SUITE 400**
**PORTLAND OR 97204**

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
In-Dal Song :
Application No. 11/832,504 : DECISION ON PETITION
Filed: August 1, 2007 :
Attorney Docket No. 9898-581 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed February 6, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

27 JAN 2010

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www.uspto.gov

JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

| | | |
|---|---|---|
| In re Application of | : | |
| Sang-Won KANG, et al. | : | |
| Application No. 11/832,597 | : | DECISION ON PETITION |
| Filed: August 1, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 58049-00043 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 04 December 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior

application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are 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) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Derek Putonen at (571) 272-3294.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

- 2 JUN 2010

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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JHK LAW
P.O. Box 1078
La Canada, CA 91012-1078

| | | |
|---|---|---|
| In re Application of<br>KANG et al.<br>Application No.: 11/832,597<br>Filed: August 01, 2007<br>Attorney Docket No.: 58049-00043<br>For: PHARMACEUTICAL COMPOSITION FOR PREVENTING AND TREATING RESTENOSIS COMPRISING PEROXIREDOXIN 2 PROTEIN. . . . . | : | DECISION ON PETITION |

This decision is issued in response to applicant's Renewed Petition under 37 CFR 1.78(a)(3) - Petition to Accept an Unintentionally Delayed Benefit Claim" dated February 01, 2010 and May 13, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international 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 application 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with present petition, 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 international 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.*

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1656 for appropriate action on the amendment filed February 01, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed application.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 |
|---|---|---|---|---|---|---|
| 11/832,597 | 08/01/2007 | 1656 | 425 | 58049-00043 | 12 | 3 |

**CONFIRMATION NO. 6350**

**CORRECTED FILING RECEIPT**

35736
JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

*OC000000041889515*

Date Mailed: 06/02/2010

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)**

Sang-Won KANG, Seoul, KOREA, REPUBLIC OF;
Min-Hee Choi, Kyunggi-do, KOREA, REPUBLIC OF;

**Power of Attorney:**
Hyo Kim--41425

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/KR2006/000289 01/25/2006

**Foreign Applications**
REPUBLIC OF KOREA 10-2005-0009875 02/03/2005

**If Required, Foreign Filing License Granted:** 09/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/832,597**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

PHARMACEUTICAL COMPOSITION FOR PREVENTING AND TREATING RESTENOSIS COMPRISING PEROXIREDOXIN 2 PROTEIN AS AN ACTIVE INGREDIENT AND COMPOSITION

FOR SCREENING THERAPEUTICS OF RESTENOSIS COMPRISING PEROXIREDOXIN 2 GENE OR ITS PROTEIN PRODUCT, AND METHOD FOR SCREENING TH

**Preliminary Class**

424

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 26 2010

OFFICE OF PETITIONS

In re Application
Thomas Baker
Application No. 11/832,609
Filed: August 1, 2007
Attorney Docket No. 18569US02

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed June 29, 2010. Applicant requests that the determination of patent term adjustment be corrected from 544 to 609 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jeffrey A. Feinstein | : | DECISION ON PETITION |
| Application No. 11/832,610 | : | TO WITHDRAW |
| Filed: August 1, 2007 | : | FROM RECORD |
| Attorney Docket No. 35006-634F01US | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 1, 2008 and resubmitted on March 10, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Glenn Patent Group were revoked by the assignee of the patent application on March 11, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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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**AVERILL & VARN**
**8244 PAINTER AVENUE**
**WHITTIER, CA 90602**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Nello Batistelli | : | |
| Application No. 11/832,628 | : | DECISION ON PETITION |
| Filed: August 1, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 137/123 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 an affidavit by applicant Nello Batistelli. 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 3771 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF JERRY A. SCHULMAN
1S376 SUMMIT AVENUE
COURT C
OAKBROOK TERRACE, IL 60181

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OFFICE OF PETITIONS

In re Application of :
Uri Rapoport et al :
Application No. 11/832,649 :
Filed: August 1, 2007 :
Attorney Docket No. 10217-2-30 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 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 August 16, 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 October 17, 2007.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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**LAW OFFICES OF JERRY A. SCHULMAN**
**1S376 SUMMIT AVENUE**
**COURT C**
**OAKBROOK TERRACE IL 60181**

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DEC 23 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ehud Katznelson | : | |
| Application No. 11/832,650 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. 10217-2-29 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 15, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 16, 2007. A Notice of Abandonment was mailed April 23, 2008.

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

Petitioner has not submitted a substitute specification and abstract as required in the Notice to File Missing Parts. Further, petitioner has paid $73.00 towards the required $110.00 examination fee also requested in the Notice to File Missing Parts mailed August 15, 2008. Therefore, a payment of $37.00 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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**LAW OFFICES OF JERRY A. SCHULMAN**
**1S376 SUMMIT AVENUE**
**COURT C**
**OAKBROOK TERRACE IL 60181**

**MAILED**

MAY 12 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Ehud Katznelson | : | |
| Application No. 11/832,650 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. 10217-2-29 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 15, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 16, 2007. A Notice of Abandonment was mailed April 23, 2008.

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

The instant petition lacks item (1). Petitioner authorized the Office to charge $102.00 to petitioner's credit card for payment towards the $37.00 remaining balance of the examination fee and a $65.00 one-month extension of time fee. However, the credit card was declined on April 10, 2009.

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**LAW OFFICES OF JERRY A. SCHULMAN**
**1S376 SUMMIT AVENUE**
**COURT C**
**OAKBROOK TERRACE IL 60181**

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SEP 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ehud Katznelson | : | |
| Application No. 11/832,650 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. 10217-2-29 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 15, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 16, 2007. A Notice of Abandonment was mailed April 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath or Declaration, Substitute Specification and Abstract (previously submitted April 10, 2009), the $65.00 surcharge fee, the Basic filing fee of $82.00; the Search fee of $270.00 (previously submitted November 19, 2008), and the Examination fee of $110.00, (2) the petition fee of $810.00 (previously submitted November 19, 2008), and (3) a proper 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.

Telephone inquiries concerning this decision should be directed to the undersigned 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.

Joan Olszewski
Petitioner Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (ALO), MS 6F-067
WASHINGTON DC 20585-0162

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| | | |
|---|---|---|
| In re Application of | : | |
| Schmierer, et al. | : | |
| Application No. 11/832,669 | : | DECISION GRANTING PETITION |
| Filed: October 12, 2007 | : | |
| Attorney Docket No. S-104,963 | : | |

This is a decision on the petition filed October 12, 2007, to accept omitted drawings figures and a later application filing date.

The petition is **granted**.

On August 2, 2007, the above-identified application was filed. However, on August 16, 2007, the Office of Patent Application Processing mailed the Notice stating that application had been accorded a filing date of August 2, 2007, but that figures 7a-7d, as described in the specification, appeared to have been omitted. The notice set a non-extendable period for reply two-month from its mailing date.

In response, on October 12, 2007, applicant filed the present petition, a drawing sheet containing Figures 7a-7d, a declaration under 37 CFR 1.63, and requested a filing date as of the date the omitted figures were supplied.

Upon review of the record, the omitted figures were not located among the application papers. It is appropriate to accept Figures 7a-7d as part of the original disclosure and accord the application a new filing date of October 12, 2007.

Accordingly, the petition is granted.

The application file is being returned to the Office of Patent Application Processing with a **new filing date of October 12, 2007**, including Figures 7a-7d as part of original disclosure. The Office of Patent Application Processing will issue a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,681 | 08/02/2007 | Shigeo Azuma | JP920060009US1 | 6501 |

25259 7590 12/08/2008
IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

| EXAMINER |
|---|
| CALDWELL, ANDREW T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2442 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/08/2008 | ELECTRONIC |

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RSWIPLAW@us.ibm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TECHNOLOGY CENTER 2100

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

In re Application of: Shigeo **Azuma**
Application No.: 11/832,681
Filed: August 02, 2007

For: TRANSFERRING WEB CONTENTS

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 November 13, 2008, to make the above-identified application special.

The petition is **GRANTED.**

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

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

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

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

(5) Applicant must submit a copy of the latest office actions (other than "Decision to Grant a Patent") from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

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

Telephone inquiries concerning this decision should be directed to Ricky Ngo 571-272-3139.

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

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

/Ricky Ngo/

Ricky Ngo
Supervisory Patent Examiner, Technology Center 2400
571-272-3139

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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**OFFICE OF PETITIONS**

In re Application of
Sturgill, et al.
Application No. 11/832,704
Filed: August 2, 2007
Attorney Docket No. UVD 0279 VA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

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

This application became abandoned for failure to properly and timely reply to the Notice to File Missing Parts of Application mailed September 21, 2007, which set a two month shortened statutory period to submit $1,125.00 in additional fees. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Applicants filed $650.00 on October 3, 2007. A Notice of Incomplete Reply was mailed on November 1, 2007. The application became abandoned on November 22, 2007. A Notice of Abandonment was mailed on May 30, 2008.

Applicants have submitted a proper reply to the September 21, 2007 Notice in the form of the additional fees due, an acceptable statement of the unintentional nature of the delay in responding to the September 21, 2007 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the application file will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/832,768 | 08/02/2007 | Katsuji Tokie | YKI.8690 | 6683 |

55740 7590 07/20/2009
GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

| EXAMINER |
|---|
| HERNDON, HEATHER R |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2176 | |

| 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

In re Application of: K. TOKIE
Application No. 11/832,768
Filed: August 2, 2007
Atty. Docket No.: YKI.8690
For: COMPUTER-READABLE MEDIUM STORING PROGRAM FOR CONTROLLING ARCHIVING OF ELECTRONIC DOUCUMENT, DOCUMENT MANAGEMENT SYSTEM, DOCUMENT MANAGEMENT METHOD, AND 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 24, 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, "memory means", "acquisition means", etc. have been replaced by "memory", "acquisition unit", etc. All the means plus function claim language 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.

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

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

**Bruce E. Lilling**
**Lilling & Lilling PLLC**
**P.O. Box 560**
**Golden Bridge, NY 10526**

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application of

Didier Toubia et al.
Application No. 11/832,778
Filed: August 2, 2007
Attorney Docket No. 941/8

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 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 a photocopy of applicant's passport and 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.

Upon completion of the pre-examination processing by the Office of Initial Patent Examination, this application will be referred to Technology Center AU 3735 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**SEAN LIAM KELLEHER**
**KELLEHER & LILLING PLLC**
**245 MAIN STREET**
**WHITE PLAINS, NY 10601**

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JUL 21 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **TOUBIA,** Didier et al. | : | |
| Application No. 11/832,778 | : | DECISION ON PETITION |
| Filed: August 02, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **941/8** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 29, 2008.

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

A review of the file record indicates that the power of attorney to Sean Liam Kelleher has been revoked by the assignee of the patent application on June 03, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HESLIN ROTHENBERG FARLEY & MESITI PC**
**5 COLUMBIA CIRCLE**
**ALBANY, NY 12203**

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

KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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JUN 26 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Carl T. Brighton | : | |
| Application No.: 11/832790 | : | DECISION |
| Filing or 371(c) Date: 08/02/2007 | : | PETITION |
| Attorney Docket Number: 663/15 | : | |

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. §1.181(a)," filed April 29, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed August 15, 2007. The Notice required 1) a properly signed oath or declaration; 2) Replacement drawings, and 3) a surcharge for the late filing of the oath or declaration, and set a two (2) month period for reply from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, and Application Data Sheet ("ADS"), and additional fees, on March 13, 2008. No Replacement drawings were filed. Also, the reply was filed two (2) days prior to the maximum extendable period for the reply.

The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> 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 Director in such action, the application **shall** be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

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

This section explains that the reply must be both complete and proper as the condition of the application may require.

Analysis

Here, Applicant filed a reply; however, the reply was not a complete and proper reply. Replacement drawings required in the Notice were not filed with the reply.

Conclusion

In view of the foregoing, the application is abandoned. As provided in the Manual of Patent Examining Procedure,

> Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Alternate venue

Applicant is urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not

appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

| | |
|---|---|
| By mail: | Director for Patents<br>PO Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-8300<br>Attn: Office of Petitions |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

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

Derek L. Woods
Attorney
Office of Petitions

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900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Carl T. Brighton | : | |
| Application No.: 11/832790 | : | DECISION ON |
| Filing or 371(c) Date: 08/02/2007 | : | PETITION |
| Attorney Docket Number: 663/15 | : | |

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under Petition Under 37 C.F.R. 1.137(b)," filed July 22, 2008. This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed August 15, 2007. The Notice required 1) a properly signed oath or declaration; 2) Replacement drawings, and 3) a surcharge for the late filing of the oath or declaration, and set a two (2) month period for reply from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, and Application Data Sheet ("ADS"), and additional fees, on March 13, 2008. No Replacement drawings were filed. Also, the reply was filed two (2) days prior to the maximum extendable period for the reply. As such, the reply was not a complete and proper reply. Replacement drawings required in the Notice were not filed with the reply.

Applicant files the present petition and drawings in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WARREN K. MACRAE
LOEB & LOEB LLP
345 PARK AVENUE
NEW YORK. NEW YORK 10154

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NOV 25 2008

OFFICE OF PETITIONS

In re Application of :
John A. Ewen et al. :
Application No. 11/823,802 : ON PETITION
Filed: June 28, 2007 :
Attorney Docket No. C015488/0137441 :

This is a decision on the petition filed October 24, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on June 23, 2008 for failure to file a timely response to the non-Final Office Action mailed March 20, 2008. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed October 1, 2008.

Petitioner asserts that a proper response in the form of an amendment with a three month extension of time was timely filed with a September 22, 2008 certificate of mail date. Submitted as proof is a copy of the response said to have been filed as well as a postcard receipt date stamped on September 25, 2008 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time and check in the amount of $1050 for the extension of time, were timely filed with a September 22, 2008 certificate of mail date but with a receipt date of September 25, 2008, and are of record. A review of the file also reveals that a petition under 37 CFR 1.78 was also filed with a September 22, 2008 certificate of mail and received on September 25, 2008. The fee for the petition under 37 CFR 1.78 was not included with the petition and a petition with the appropriate fees has been re-filed on October 14, 2008 and will be considered in due course.

Accordingly, the Notice of Abandonment mailed October 1, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1796 for treatment of the response filed September 25, 2008 with a September 22, 2008 certificate of mail date.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUKE W. YEE
P.O. BOX 802333
YEE & ASSOCIATES, P.C.
DALLAS TX 75380

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DEC 14 2007

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Belisario, et al. | : DECISION REFUSING STATUS |
| Application No. 11/832,821 | : UNDER 37 CFR 1.47(a) |
| Filed: August 2, 2007 | : |
| Atty. Dkt. No.: SVL920070048US1 | : |
| For: EXTENSIBLE MECHANISM FOR | : |
| AUTOMATICALLY MIGRATING | : |
| RESOURCE ADAPTER COMPONENTS IN | : |
| A DEVELOPMENT ENVIRONMENT | : |

This decision is in response to the petition under 37 CFR 1.47(b) filed November 15, 2007. This matter is being properly treated under the provisions of 37 CFR 1.47(a).

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

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 2, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed August 15, 2007. The Notice required a surcharge and an executed oath or declaration.

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

As to item (1), petitioners has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioners allege that the non-signing inventor has refused to execute the declaration for the instant application. The petition states that "signature documents" were mailed to the non-signing inventor on October 18, 2007, and that this effort resulted in the non-signing "refusing to sign and return the declaration for this application." The petition is also accompanied by a copy of a "Statement of Understanding" signed and dated inventor September 24, 2007 by the non-signing inventor.

Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration), and thereafter, refused to sign the declaration for the application.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has been presented.

As to item (3), the required petition fee of $200.00 has been received.

As to item (4), the last known address of the non-signing inventor has been provided.

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

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By hand: | U.S. Patent and Trademark Office<br>Customer Service Window<br>Mail Stop Petition<br>Randolph Building<br>401 Dulaney Street<br>Alexandria, VA 22314 |

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Hee Geol WEE | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646349 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/832,863 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/02/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **90** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

FEB 05 2009

OFFICE OF PETITIONS

Applicant: Takayanagi, et al.
Appl. No.: 11/832,895
Filing Date: August 2, 2007
Title: NOVEL BENZAMIDINE COMPOUND
Attorney Docket No.: 312422US0CONT
Pub. No.: US 2008/0021065 A1
Pub. Date: January 24, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 21, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in one of the chemical compounds in the specification.

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

The error in the specification of the publication is not a material Office error under 37 CFR 1.221. The patent application publication was published with an erroneous pendant group in one compound in Table 1. The error is due to the quality of the text, which is extremely poor as the pendent groups are extremely small and faint. The text 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 and PCT Rule 11.9(d)(1).

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

[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).

been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **BRIDGES,** Robert G. | : | |
| Application No. 11/832,910 | : | DECISION ON PETITION |
| Filed: August 02, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **040168-000110US** | : | FROM RECORD |
| | : | |

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 03, 2009 and resubmitted April 02, 2009.

The request is **APPROVED**.

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

The request was signed by William J. Daley on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Robert G. Bridges 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: **ROBERT G. BRIDGES**
**2465 PEREGRINE LOOP**
**MISSOULA, MT 59808**

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**KELLEY DRYE & WARREN LLP**
**400 ALTLANTIC STREET , 13TH FLOOR**
**STAMFORD CT 06901**

In re Application of
**LEONARDELLI,** Georg
Application No. 11/832,934
Filed: August 02, 2007
Attorney Docket No. **ABP-120(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 August 01, 2008.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

4/16/09

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|---|---|---|
| In re Application of<br>MATSUBARA, TAKUJI et al<br>Application No. 11/833,041<br>Filed: Aug. 9, 2007<br>Attorney Docket No. 312953US26<br>For: EXHAUST GAS CONTROL APPARATUS FOR INTERNAL COMBUSTION ENGINE AND METHOD OF CONTROLLING SAME | : | 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 under 37 CFR 1.102(d), filed April 13, 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) of $130.00 has been paid.

The request to participate in the PPH program and petition comply with the above requirements. Receipt of the preliminary amendment on April 13, 2009 is acknowledged and has been entered. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner Thomas Denion, Art Unit 3748, at 571-272-4859.

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

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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**OFFICE OF PETITIONS**

In re Application of :
Nicola Cesario et al :
Application No. 11/833,053 :
Filed: August 2, 2007 :
Attorney Docket No. 05NP33653612 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 29, 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 October 30, 2007.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**SCHERING-PLOUGH CORPORATION**
**PATENT DEPARTMENT (K-6-1, 1990)**
**2000 GALLOPING HILL ROAD**
**KENIWORTH, NJ 07033-0530**

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Grisoni et al. | : | |
| Application No. 11/833,067 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. FC06509US01 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 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 August 13, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2007. A Notice of Abandonment was mailed April 23, 2008

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Oath/Declaration with accompanying $130.00 surcharge fee and Replacement Drawings (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b) only requires a terminal disclaimer and fee if the instant application is a design application or was filed prior to June 8, 1995. The instant application is neither of those. Accordingly, the terminal disclaimer and fee submitted on June 23, 2008 are unnecessary. The $130.00 fee will be credited to petitioner's deposit account.

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

This application is being referred to The Office of Patent Application Processing for further processing in accordance with this decision on petition.

Liana Walsh
Petition Examiner
Office of Petitions

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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|---|---|---|
| In re Application of | : | |
| Magill et al. | : | |
| Application No. 11/833,094 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | PURSUANT TO |
| Attorney Docket No.: T-6918 | : | 37 C.F.R. § 1.137(B) |
| Title: METHOD FOR | : | |
| DETERMINING SEISMIC DATA | : | |
| QUALITY | : | |

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

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 15, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on September 16, 2009. Both the issue and publication fees were received on September 17, 2009, and a Notice of Abandonment was mailed on October 14, 2009.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

§ 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank

3 See Rule 1.137(d).

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Maurice Teixeira
6001 Bollinger Canyon Road
San Ramon, CA 94583

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

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C/O HAYNES BEFFEL & WOLFELD LLP
P. O. BOX 366
HALF MOON BAY CA 94019

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JUN 2 1 2010

**OFFICE OF PETITIONS**

In re Patent No. 7,729,161 :
Issue Date: June 1, 2010 :
Application No. 11/833,143 : ON PETITION
Filed: August 2, 2007 :
Attorney Docket No. MXIC 1694-1 :

This is a decision on the petition filed April 29, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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| In re Application of | : | |
| Wei Guo | : | |
| Application No.11/833,154 | : | DECISION REFUSING STATUS |
| Filed: August 2, 2007 | : | UNDER 37 C.F.R. §1.47(b) |
| Attorney Docket Number: IK-156(P)(US) | : | |
| Title: Mechanism For Microscope Objective Changer and Filter Changer | : | |

This is in response to the petition under 37 C.F.R. §1.47(b), filed January 10, 2008.

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

The above-identified application was filed on August 2, 2007, without an executed oath or declaration, and naming Wei Guo as sole inventor. Accordingly, on August 16, 2007, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration. To make the reply timely, a three month extension of time was submitted. Pursuant to petitioner's request, deposit account 11-0404 will be charged the $200.00 petition fee.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), (5) and (6).

**Proof of Refusal to Sign the Oath or Declaration**

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(b). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Guo. Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor Guo. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor 's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Guo's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

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

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.

**An Acceptable Oath or Declaration**

As to item (2), applicant failed to submit an oath or declaration in compliance with 37 CFR 1.63. The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. The declaration also must state the full name, residence, post office address, and citizenship of the non-signing inventor.

It should also be noted that the declaration does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56. Instead of "material to patentability," it improperly states "material to the examination of this application".

All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. See. 1327 O.G. 112.

**Proof of Proprietary Interest**

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest

in the subject matter to justify the filing of the application. If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). See MPEP 409.03(f).

Petitioner has provided a Confidentiality Information and Invention Assignment Agreement. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. Petitioner has failed to establish the invention was made while non-signing inventor was an employee.

**Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.**

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

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

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|---|---|
| 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 |

Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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| In re Application of | : | |
| Wei Guo | : | DECISION NOTING JOINDER OF |
| Application No. 11/833,154 | : | INVENTOR AND PETITION |
| Filed: August 2, 2007 | : | UNDER 37 CFR 1.47(b) |
| Attorney Docket No. IK-156(P)(US) | : | |

Papers filed on March 21, 2008 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)," mailed March 4, 2008, included a Declaration signed by a previously non-signing inventor, Guo, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record of this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

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|---|---|---|
| In re Application of | : | |
| James Toner Sundby | : | |
| Application No. 11/833,158 | : | DECISION ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. 010262-021510US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed June 25, 2009. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on December 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously submitted on December 22, 2009); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 2817 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed on December 22, 2009.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

12/3/09

| | | |
|---|---|---|
| In re Application of: | : | DECISION ON |
| Richard S. Ginn | : | PETITION TO CORRECT |
| Serial No.: 11/833,182 | : | INVENTORSHIP |
| Filed: August 2, 2007 | : | |
| | : | |

This is in response to applicant's petition under 37 CFR 1.48(b) to delete David White, Jeffrey J. Christian and Ryan S. Christian as inventors of the subject matter now claimed in the above-identified application.

Such a petition requires:

1) a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and

2) the fee set forth in § 1.17(i).

As both of these requirements have been met, the petition is **GRANTED**.

/Patricia Bianco/

Patricia Bianco
Supervisory Patent Examiner
Art Unit 3772

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|---|---|
| In re Application of | : |
| Guo and Tafas | : DECISION REFUSING STATUS |
| Application Number: 11/833183 | : UNDER 37 CFR 1.47(a) |
| Filing Date: 08/02/2007 | : |
| Attorney Docket Number: IK-158(P)(US) | : |

This is in response to the petition under 37 CFR 1.47(a) filed on January 10, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on August 2, 2007, without an executed oath or declaration.

Accordingly, on August 16, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, stating that the oath or declaration was required, along with a surcharge for late filing of the oath or declaration. Replacement drawings were also required.

In response, on October 29, 2007, petitioner filed the replacement drawings, along with a one (1) month extension of time.

Accordingly, on November 16, 2007, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating the response filed on October 29, 2007, was incomplete because it did not include the oath or declaration or surcharge or Figures 8-11 of the replacement drawings.

In response, on January 10, 2008, 12 sheets of replacement drawings were filed, along with a three (3) month time extension, a declaration pursuant to 37 CFR 1.63 naming Wei Guo and Triantafyllos Tafas as joint inventors, signed by joint inventor Tafas on behalf of himself and non-signing joint inventor Guo, and the present petition, and the late filing surcharge.

Petitioners state that "the [non-signing] inventor listed below is not available to provide their signature to the … Declaration … due to terminated employment of the inventor and non-response to the employer's attempted correspondence to the inventor."

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), and (5).

In regards to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In order for a Rule 47 petition to be granted, the inventor(s) **must** be afforded an opportunity to review the application.[2] Petitioners may show proof that a copy of the application was sent or given to the

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[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

With regards to item (5), the last known address for the non-signing inventor(s) must be provided. While an address for the non-signing inventor has been provided in the petition, petitioner's have not stated that the address provided is the last known address for the non-signing inventor. The last known address is that address at which the inventor customarily receives mail.[3] Ordinarily, the last known address will be the last known residence of the non-signing inventor.[4]

The petition fee of $200.00 will be charged to counsel's deposit account, as authorized in the present petition.

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

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[3] See MPEP 605.03.

[4] MPEP 409.03(e).

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-08

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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APR 24 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of<br>Guo et al.<br>Application Number: 11/833183<br>Filing Date: 08/02/2007<br>Attorney Docket Number: IK-158(P)(US) | DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT |

Papers filed on March 21, 2008, in response to the decision dismissing petition mailed on February 6, 2008, included a Declaration signed by the previously non-signing inventor, in compliance with 37 CFR 1.63.

The petition is **dismissed as moot**.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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Howard J. Klein
Klein, O'Neill & Singh, LLP
Suite204
43 Corporate Park
Irvine, CA 92606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Henning Ingemann Hansen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7569778 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/833,196 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/02/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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JAN 30 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Triantafyllos Tafas et al. | : |
| Application No. 11/833,203 | : DECISION REFUSING STATUS |
| Filed: August 2, 2007 | : UNDER 37 CFR 1.47(a) |
| Attorney Docket No. IK-159(P)(US) | : |

This decision is in response to the petition filed January 10, 2008 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified application was filed on August 2, 2007, without an oath or declaration. Accordingly, on August 14, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a three month extension of time request, and a declaration executed by all joint inventors except Wei Guo, in their own stead and on behalf of the non-signing joint inventor, was filed. Petitioner claims that joint inventor Guo has not responded to employer's attempted correspondence to the inventor.

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

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

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

(3) the petition fee;

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

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

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

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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**OFFICE OF PETITIONS**

In re Application of
Triantafyllos Tafas et al.
Application No. 11/833,203
Filed: August 2, 2007
Attorney Docket No. IK-159(P)(US)

:DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed January 10, 2008 and was dismissed in a decision mailed January 30, 2008.

Papers filed March 21, 2008 in reply to the "Decision Refusing Status Under 37 CFR 1.47(b)" mailed January 30, 2008, include a declaration signed by joint inventor Wei Guo in compliance with 37 CFR 1.63.

In view of the joinder of the previously non-signing joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 21, 2008 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAMFORD, CT 06901

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JAN 30 2008

**OFFICE OF PETITIONS**

In re Application of
Yanning Zhu et al.
Application No. 11/833,204
Filed: August 2, 2007
Attorney Docket No. IK-157(P)(US)

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed January 10, 2008 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified application was filed on August 2, 2007, without an oath or declaration. Accordingly, on September 18, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a three month extension of time request, and a declaration executed by all joint inventors except Yanning Zhu in their own stead and on behalf of the non-signing joint inventor, was filed. Petitioner claims that joint inventor Zhu has not responded to employer's attempted correspondence to the inventor.

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

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

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

(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor.

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

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

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

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KELLEY DRYE & WARREN LLP
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STAMFORD CT 06901

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**OFFICE OF PETITIONS**

In re Application of
Triantafyllos Tafas et al.
Application No. 11/833,204
Filed: August 2, 2007
Attorney Docket No. IK-157(P)(US)

:DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed January 10, 2008 and was dismissed in a decision mailed January 30, 2008.

Papers filed March 21, 2008 in reply to the "Decision Refusing Status Under 37 CFR 1.47(b)" mailed January 30, 2008, include a declaration signed by joint inventor Wei Guo in compliance with 37 CFR 1.63.

In view of the joinder of the previously non-signing joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 21, 2008 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred 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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SEP 0 2 2008

OFFICE OF PETITIONS

THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE CA 95134

| | | |
|---|---|---|
| In re Application of | : | |
| Reinhold Pesch | : | |
| Application No. 11/833,209 | : | ON PETITION |
| Filed: August 2, 2007 | : | |
| Attorney Docket No. 3262US1/NAT | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed July 23, 2008.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on November 7, 2007. However, the US Patent and Trademark Office was unintentionally not notified of this filings within 45 days subsequent to the filing of the PCT application.

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

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

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

Receipt of the $1540 petition fee is acknowledged.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing is enclosed.

The application is being forwarded to Group Art Unit 2881 for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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 |
|---|---|---|---|
| 11/833,209 | 08/02/2007 | Reinhold Pesch | 3262US1/NAT |

**CONFIRMATION NO. 7498**

44064
THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

**NONPUBLICATION RESCISSION LETTER**

*OC000000031725923*

Date Mailed: 08/22/2008

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is WDNP.

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".

/ccongo/

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

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**KEVIN J. MACK**
**112 MAPLE LANE**
**E. PALO ALTO CA 94303**

**MAILED**

MAY 26 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mikhail Gilula | : | DECISION ON PETITION |
| Application No. 11/833,218 | : | TO WITHDRAW |
| Filed: August 2, 2007 | : | FROM RECORD |
| Attorney Docket No. Mikhail | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 5, 2008, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED AS MOOT.**

A review of the file record indicates that Kevin J. Mack does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Accordingly, petitioner's request to change the correspondence address of record submitted on February 20, 2009 will not be accepted. Therefore, all future communications from the Office will be directed solely to the address of record.

Currently this application has been docketed and is awaiting examination.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Mikhail Gilula
661 Scorpio Lane
Foster City, CA 94404

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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**RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.**
**222 LAKEVIEW AVE**
**SUITE 800**
**WEST PALM BEACH FL 33401-6112**

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MAR 0 5 2008

**OFFICE OF PETITIONS**

In re Application of

**GORDON,** Andrew W.
Application No. 11/833,279
Filed: August 03, 2007
Attorney Docket No. **52728-0172**

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 05, 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, transfer to new counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AMANDA MARTIN-BROCK**
**WATER STANDARD CO., LLC**
**4265 SAN FELIP**
**SUITE 610**
**HOUSTON, TX 77027**

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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**RUDEN, MCCLOSKY, SMITH,**
**SCHUSTER & RUSSELL, P.A.**
**222 LAKEVIEW AVE**
**SUITE 800**
**WEST PALM BEACH FL 33401-6112**

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MAR 1 7 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| **GORDON,** Andrew W. | : | |
| Application No. 11/833,279 | : | DECISION ON PETITION |
| Filed: August 03, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **52728-0172** | : | FROM RECORD |

This is a renewed decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 04, 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 Stanley Kim on behalf of all attorneys of record who are associated with customer No. 43463. All attorneys/agents associated with the Customer Number 43463 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANDREW W. GORDON**
**2680 N.W. 41ST STREET**
**BOCA RATON, FL 33434**

cc: **WATER STANDARD CO., LLC**
**ATTN: AMANDA MARTIN-BROCK**
**4265 SAN FELIP, SUITE 610**
**HOUSTON, TX 77027**

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. |
|---|---|---|---|---|
| 11/833,337 | 08/03/2007 | Young-chan KIM | Q102353 | 7712 |

7590. 04/30/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| NEGRON, ISMAEL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2885 | |

| 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
08/03/2007 INTEFSW 00004539 194880 11833337
02 FC:1111 500.00 CR

Adjustment Date: 05/01/2009 BPOWELL
10/26/2007 INTEFSW 00014289 194880 11924785
02 FC:1111 510.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/833,356 | 08/03/2007 | Ryuuta NISHIHARA | NS-US075133 | 7744 |

7590 03/24/2010
GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

| EXAMINER |
|---|
| KNIGHT, DEREK DOUGLAS |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3655 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/24/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 03/24/2010 MFARMER
08/03/2007 IN.E.CR 00084675 50.00 [illegible]
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

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Ilia Ichetovkin | : |
| Application No. 11/833,365 | : DECISION REFUSING STATUS |
| Filed: August 3, 2007 | : UNDER 37 CFR 1.47(b) |
| Attorney Docket No. IK-173(P)(US) | : |
| **For:** SYNTHESIS OF LABELED PROBES | |

This is a decision on the petition under 37 CFR 1.47(b), filed January 14, 2008.

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

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

The above-identified application was filed on August 3, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on August 15, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, in addition to other items. The instant petition was filed on January 14, 2007, with a request for an extension of time within the third month.

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

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

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

(3) the petition fee

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

(5) proof of proprietary interest, and

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

The instant petition has not satisfied items (1), (2) and (6) above.

As to item (1), the statement of the alleged unavailability of the non-signing inventor is not sufficient because it does not detail petitioner's effort to locate the non-signing inventor. It is note sufficient for petitioner to state that petitioner has made a diligent effort to locate the non-signing inventor. Petitioner must establish that such efforts were made. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent, part that:

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

Any renewed petition under 37 CFR 1.47(a) filed must be accompanied by a statement establishing that a diligent effort was made to locate the non-signing inventor.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47[1]. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and

[1] Although the petition appears to be a petition under 37 CFR 1.47(b) which is used for circumstances where there is only a sole inventor and that inventor is refusing to sign the declaration, the petition indicates that there are other "applicants" that are willing to join the prosecution of the application. If this application names other joint inventors that are willing to join the prosecution of the application, the petition should be filed under 37 CFR 1.47(a), and the declaration must contain signature blocks for all the joint inventors with the block for the non-signing inventor left blank. Petitioner should consult 37 CFR 1.47 and Section 400 of the Manual of Patent Examining Procedure for further guidance on the difference between a petition under 37 CFR 1.47(a) and (b) and determine which is most appropriate under the circumstances.

> Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

Further as to item (2), if the 37 CFR 1.47(b) is an assignee, the declaration cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the Manual of Patent Examining Procedure cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

As to item (6), petitioner has not established that a filing date is necessary to preserve the rights of the party or prevent irreparable harm. This showing may be made by a statement to that effect and should accompany any renewed petition filed. *See MPEP* 409.03(g). Further correspondence with respect to this matter should be addressed as follows:

Deposit account 11-0404 will be charged $200.00 for the petition fee and $65.00 for the surcharge for the late filing of the oath or declaration.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96

PTO/SB/96 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

Entitled:

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

states that it is:

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

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

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

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

**OR**

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

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

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

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

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

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

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

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

| | |
|---|---|
| Signature | Date |
| Printed or Typed Name | Telephone Number |
| Title | |

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

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

# Privacy Act Statement

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

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

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

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

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD, CT 06901

COPY MAILED

MAY 0 9 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ilia Ichetovkin | : | |
| Application No. 11/833,365 | : | DECISION NOTING JOINDER |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. IK-173(P)(US) | : | |
| **For:** SYNTHESIS OF LABELED PROBES | | |

This is in response to the correspondence filed March 21, 2008, noting the joinder of inventor Ichetovkin in the above-cited application.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by inventor Ichetovkin is noted and made of record.

This application is being directed to the Office of Patent Application Processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Best Available Copy

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. |
|---|---|---|---|---|
| 11/833,388 | 08/03/2007 | Yong-seok CHOI | KSA-0037 | 7795 |

7590 04/23/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|
| LOVELL, LEAH S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2885 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/23/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/22/2009 NFARMER
08/03/2007 INTEFSW 00004981 061130 11833388
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/833,392 | 08/03/2007 | Christophe Vaucher | 10000-91US (110272 US/WO) | 7802 |

7590 10/24/2008
PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

| EXAMINER |
|---|
| ISLA RODAS, RICHARD |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2829 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/24/2008 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 10/27/2008 BPOWELL
08/03/2007 INTEFSW 00005051 501017 11833392
02 FC:1111 500.00 CR
04 FC:1202 600.00 CR



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Kapil Singhi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619383 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/833,393 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/03/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/833,394 | 08/03/2007 | Christophe Vaucher | 10000-89US (100275 US/WO) | 7805 |

7590 02/18/2009

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

| EXAMINER |
|---|
| ISLA RODAS, RICHARD |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2829 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/18/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

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Adjustment Date: 02/18/2009  BPOWELL
08/03/2007 INTEFSW  00005091 501017   11833394
02 FC:1111        500.00 CR
04 FC:1202       1300.00 CR
05 FC:1201        200.00 CR
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Adjustment date: 02/18/2009  BPOWELL
08/03/2007 INTEFSW  00005091 501017   11833394
02 FC:1111        500.00 CR
04 FC:1202       1300.00 CR
05 FC:1201        200.00 CR
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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

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

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MAR 2 4 2009

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Ali Rezaki et al. | : |
| Application No. 11/833,403 | : DECISION ACCORDING STATUS |
| Filed: August 3, 2007 | : UNDER 37 CFR 1.47(a) |
| Attorney Docket No. **Q103082** | : |

This decision is in response to the petition filed October 21, 2008 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified application was filed on August 3, 2007 without an executed Oath or Declaration not executed by all inventors. Accordingly, on April 21, 2008, 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) was filed arguing that the assignee has been unable to obtain a reply to the mailing requesting the signature of joint inventor Ali Rezaki.

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 present petition lacks items (4).

In regards to item (4), the last known address of joint inventor Rezaki has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventor. That address should be the last known address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the last known address has been provided with a request for reconsideration.

Further, to ensure the record is correct, in any renewed petition, petitioner should be careful to note the name of the non-signing inventor as the petition also references that the petitioner has "conducted searching over the internet and has been unable to locate Mr. Keating."

Finally, it is incumbent upon the petitioner to note whether this petition is because in spite of diligent efforts, they have been unable to locate the non-signing inventor or because they sent the application papers to the joint inventor and he has either expressly refused or by his actions, in not responding to the requests, refuses to cooperate with the filing of the instant application.

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

By mail: Mail Stop Petition
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

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

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DEC 04 2009

OFFICE OF PETITIONS

In re Application of
Ali Rezaki et al.
Application No. 11/833,403
Filed: August 3, 2007
Attorney Docket No. **Q103082**

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed October 26, 2009 under 37 CFR 1.47(a)[1].

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

The above-identified application was filed on August 3, 2007 without an executed Oath or Declaration not executed by all inventors. Accordingly, on April 21, 2008, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, a petition under 37 CFR 1.47(a) was filed October 21, 2008 with a four month extension of time, arguing that the assignee has been unable to obtain a reply to the mailing requesting the signature of joint inventor Ali Rezaki. The petition was dismissed in a decision mailed March 24, 2009 because the petition lacked compliance with 37 CFR 1.47(a)(4).

Comes now petitioner with a renewed petition, a five month extension of time and the last known address of non-signing inventor Ali Rezaki.

The petition bears proof that the application papers including the oath or declaration were mailed to the last known address of Mr. Rezaki but to date he has not responded to the attempts to have him execute the oath or declaration. Thus, by his actions, joint inventor Ali Rezaki has refused to cooperate with the filing of the instant application.

---

[1]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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ALI REZAKI
NOKTALI SOKAK, NO: 7 / 6
GAZIOSMANPASA, ANKARA
06700, TURKEYU

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DEC 0 4 2009

**OFFICE OF PETITIONS**

In re Application of
Ali Rezaki et al.
Application No. 11/833,403
Filed: August 3, 2007
For: **ROUTING DEVICE, ROUTING MODULE AND ROUTING METHOD FOR AN ACCESS NETWORK**

Dear Mr. Rezaki:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

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 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:

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

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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FOSTERED SOLUTIONS, INC.
735 MASON ROAD
ASHBY, MA 01431

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JUN 2 5 2008

OFFICE OF PETITIONS

In re Application of
Brian Edward
Application No. 11/833,423
Filed: August 3, 2007
Attorney Docket No. None

ON PETITION

This is a decision in response to the petition, filed January 15, 2008, and supplemented on February 20, 2008o 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 Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 17, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 18, 2007. 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 executed declaration, the $255 search fee, $105 examination fee and $130 surcharge; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed February 20, 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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P.O. Box 1450
Alexandria, VA 22313-1450
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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET 13TH FLOOR
STAMFORD CT 06901

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Guo, et al. | : | |
| Application No. 11/833,428 | : | DECISION REFUSING STATUS |
| Filed: August 3, 2007 | : | UNDER 37 CFR 1.47(a) |
| Attorney Docket No. IK-161(P)(US) | : | |

This is in response to the "PETITION UNDER MPEP § 1.47", filed January 11, 2008, which is being treated as a petition under 37 CFR 1.47(a).

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

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

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

As to item (1), the petition and accompanying evidence have been carefully considered. However, it has not been demonstrated that a copy of the application papers (comprising the specification, claims, and drawings) was sent to non-signing inventor Guo. Rather, petitioner only states that Guo did not respond to "attempted correspondence".

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

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

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

The $200 petition fee has been charged to Deposit Account No. 11-0404, as authorized.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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400 ALTLANTIC STREET 13TH FLOOR
STAMFORD CT 06901

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| | | |
|---|---|---|
| In re Application of | : | |
| Guo, et al. | : | |
| Application No. 11/833,428 | : | DECISION NOTING JOINDER |
| Filed: August 3, 2007 | : | OF INVENTOR AND PETITION |
| Attorney Docket No. IK-161(P)(US) | : | UNDER 37 CFR 1.47(a) MOOT |

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 21, 2008.

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

In view of the **joinder** of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 11/833,455 | 08/03/2007 | Bo-gyeong KANG | 0007.1096 | 7912 |

7590 09/10/2008
STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 3621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/10/2008 | 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:
09/10/2008 0030060899
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Credit Card Refund Total: $900.00

Am Exp..: XXXXXXXXXXX1035

Adjustment date: 09/10/2008 NFARMER
08/03/2007 INTEFSW 00005719 11833455
02 FC:1111 -500.00 OP
04 FC:1202 -400.00 OP



FORM PET651G (Rev. 08/07)

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JACQUELINE E. HARTT, PH.D
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, PA
P.O. BOX 3791
ORLANDO, FL 32802-3791

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NOV 29 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ronald N. Yeaple | : | |
| Application No. 11/833,470 | : | DECISION ON PETITION |
| Filed: August 3, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 90079_CON1 | : | 37 CFR 1.102(c)(1) |
| | : | |

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

The petition is **GRANTED**.

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

The instant petition includes a 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 3722 to await a reply to the Office action mailed September 27, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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NOV 17 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Naomi LIANG | : | |
| Application No. 11/833,473 | : | DECISION ON PETITION |
| Filed: August 03, 2007 | : | TO WITHDRAW |
| Attorney Docket No. ASTR-013/01US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 09, 2008.

The request is **DISMISS** as moot.

A review of the file record indicates that the power of attorney to Customer Number 58249, the above identified COOLEY GODWARD KRONISH LLP has been revoked by the assignee, AstraZeneca AB, of the patent application on July 31, 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 K. Reichle at 571-272-6051.

David Bucci
Petitions Examiner
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

| | | |
|---|---|---|
| In re Application of | : | DECISION NOTING JOINDER OF |
| Virag, et al. | : | PREVIOUSLY NON-SIGNING |
| Application No.: 11/833,517 | : | INVENTORS AND DISMISSING |
| Filed: August 3, 2007 | : | PETITION UNDER 37 CFR 1.47(a) |
| Attorney Docket No.: IK-160(P)(US) | : | AS MOOT |

A petition under 37 CFR 1.47(a) was filed on January 16, 2008 in order to permit filing of the above-identified patent application without the participation of two joint inventors. Before the petition was addressed, applicants filed a declaration in compliance with 37 CFR 1.63, executed by the previously non-signing joint inventors, Tibor Virag and Wei Guo.

In view of the joinder of the inventors, consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FEB 12 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Beachner et al. | : | |
| Application No.: 11/833524 | : | DECISION ON |
| Filing or 371(c) Date: 08/03/2007 | : | PETITION |
| Attorney Docket Number: 20061791-US-NP | : | |

This is a decision in response to the petition to revive the application under 37 CFR 1.137(b), filed January 6, 2009.

This Petition is hereby **granted**.

The above-identified application became for failure to reply to the Notice of Drawing Inconsistency With Specification ("Notice"), mailed October 31, 2008. The Notice set a non-extendable one (1) month or 30 day period for reply, whichever was longer. No reply having been received, the application became abandoned on December 1, 2008. A Notice of Abandonment was mailed on 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 the issue fee and corrected drawings; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 31 2010

OFFICE OF PETITIONS

**FREESCALE SEMICONDUCTOR, INC.**
**LAW DEPARTMENT**
**7700 WEST PARMER LANE MD:TX32/PL02**
**AUSTIN TX 78729**

| | | |
|---|---|---|
| In re Application of | : | |
| Jon S. CHOY et al. | : | |
| Application No. 11/833,545 | : | DECISION ON PETITION |
| Filed: August 03, 2007 | : | |
| Attorney Docket No. MT10753TS | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 29, 2009. Accordingly, the date of abandonment of this application is December 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-7099 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 A. Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**
**1940 DUKE STREET**
**ALEXANDRIA, VA 22314**

MAILED

AUG 11 2009

OFFICE OF PETITIONS

In re Application of :
**Toshitake YAEGASHI** :
Application No. 11/833,564 : DECISION GRANTING PETITION
Filed: August 3, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **311594US2S CONT** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on June 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2826 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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

| | | |
|---|---|---|
| In re Application of | : | |
| Melick, et al. | : | |
| Application No. 11/833,588 | : | ON PETITION |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. P05197US05 | : | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 23, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed September 25, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on December 26, 2008. The Office mailed a Notice of Abandonment on July 9, 2009.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Power of Attorney filed on September 10, 2008.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2887 for re-mailing of the September 25, 2008 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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STAMFORD, CT 06901

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| | | |
|---|---|---|
| In re Application of | : | |
| Triantafyllos Tafas et al. | : | |
| Application No. 11/833,594 | : | DECISION NOTING JOINDER |
| Filed: August 3, 2007 | : | OF INVENTORS AND PETITION |
| Attorney Docket No. IK-163(P)(US) | : | UNDER 37 CFR 1.47 (a) MOOT |

Papers filed on March 21, 2008, includes a Declaration signed by previously nonsigning inventor Yanning Zhu is in compliance with 37 CFR 1.63.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47 (a) is moot; this application does not have any rule 1.47 (a) status. This application need not be returned to this office for any further consideration under 37 CFR 1.47 (a).

This matter is being referred to Technology Center AU 2872 for examination in due course.

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

David Bucci
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/833,627 | 08/03/2007 | Chung-Ryul CHANG | 1235-518 | 8203 |

7590 09/08/2009
THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

| EXAMINER |
|---|
| GHAYOUR, MOHAMMAD H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/08/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

Refund Ref:
09/08/2009 0030074081

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Credit Card Refund Total: $500.00

Ac Exp..: XXXXXXXXXXX1011

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FROM DIRECTOR'S OFFICE

MAR 23 2009

TECHNOLOGY CENTER 3600

Locke Lord Bissell & Liddell, LLP
Attn: IP Docketing
600 Travis
Suite 3400
Houston, TX 77002-3095

| | | |
|---|---|---|
| In re application of<br>Donald G. Chamberlain et al.<br>Application No. 11/833,642<br>Filed: August 3, 2007<br>For: SYNCHRONIZATION AND POSITIONING OF SEISMIC DATA ACQUISITION SYSTEMS | :<br>:<br>:<br>:<br>: | **DECISION ON PETITION FOR SECOND SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)** |

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on February 12, 2009.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicants filed a first request on February 1, 2008 to suspend action by the examiner "as there is pending litigation on a question of inventorship for subject matter in this application and in various other applications, including now issued U.S. Pat. No. 7,117,094." A decision granting a six (6) month suspension was mailed on September 11, 2008.

In the latest petition filed February 12, 2009 applicants request and additional six (6) months suspension as "the parties to an inventorship dispute including the above-named inventor conducted a full evidentiary trial in Canada in October 2007 to determine the actual inventor(s) of the claimed subject matter of the subject application. A decision was rendered in July 2008 and the case appealed to the Canadian appellate court."

As there is an on going question of inventorship in the '094 patent, it is deemed that this constitutes a good and sufficient reason why a second suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

At the conclusion of this latest period of suspension, applicants will have had over 18 months to clear up the inventorship issue in the '094 patent. Suspension of action can not go on indefinitely.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicants are required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicants wish to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Any questions surrounding this decision should be directed to Quality Assurance Specialist Teri P. Luu at (571) 272-7045.

Katherine Matecki

Katherine A. Matecki/Director
Technology Center 3600
(571) 272-5250

tpl: 03/16/09
TL

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/833,644 | 08/03/2007 | Kenya KUROKAWA | 313022US3 | 8227 |

7590 10/27/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| NGUYEN, HOA T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/27/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

[illegible]: 1072572089 0030075940

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Credit Card Refund Total: $500.00

[illegible] Exp..: XXXXXXXXXX1022

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MEDTRONIC SPINAL AND BIOLOGICS
ATTN: NOREEN JOHNSON – IP LEGAL DEPARTMENT
2600 SOFAMOR DANEK DRIVE
MEMPHIS, TN 38132

COPY MAILED

AUG 18 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Steven M. Peckman | : | |
| Application No. 11/833,651 | : | ON PETITION |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. 48170.00106/P0023387.00 | : | |

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 above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 14, 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 October 15, 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 $2230 extension of time submitted with the petition on May 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Shahnam Sharareth
Fox Rothschild, LLP
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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JUN 19 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Tom Randy Davidson, Sr. | : | |
| Application No. 11/833,664 | : | ON PETITION |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. 51913/342845 | | |

This is a decision on the petition under 37 CFR 1.182, filed February 8, 2008, to change the name of the sole inventor cited on this application in USPTO records.

The petition is granted.

The name of the sole inventor for the above-cited application is changed to "Tom Randy Davidson, Sr." in USPTO records.

A corrected filing receipt is enclosed.

The application file is being directed to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 |
|---|---|---|---|---|---|---|
| 11/833,664 | 08/03/2007 | 3673 | 490 | 51913/342845 | 18 | 2 |

**CONFIRMATION NO. 8268**

**CORRECTED FILING RECEIPT**

23370
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

*OC000000030508284*

Date Mailed: 06/16/2008

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)**

Tom Randy Davidson SR., Griffin, GA;

**Assignment For Published Patent Application**

Davidson Equipment Leasing LLLP, Sunnyside, GA

**Power of Attorney:** The patent practitioners associated with Customer Number 23370

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/835,800 08/04/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/833,664**

**Projected Publication Date:** 09/25/2008

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

TRENCH BOX SAFETY LADDER

**Preliminary Class**

405

## 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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SEP 16 2008

PLUMSEA LAW GROUP, LLC
10411 MOTOR CITY DRIVE, SUITE 320
BETHESDA, MD 20817

| | | |
|---|---|---|
| In re Application of | : | |
| CARRUBBA, Vincent | : | |
| Application No. 11/833,672 | : | DECISION ON PETITION TO |
| Filed: August 3, 2007 | : | WITHDRAW FROM RECORD |
| Attorney Docket No. 31-1019 | : | |

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 **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael S. Lee 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 as it is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 11, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: VINCENT F. CARRUBBA
C/O INTERDYNAMICS, INC.
560 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

cc: MEYERTONS HOOD KIVLIN KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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|---|---|
| In re Application of<br>Tafas, Ichetovkin, Kilpatrick,<br>and Tsipouras<br>Application Number: 11/833678<br>Filing Date: 08/03/2007<br>Attorney Docket Number: IK-164(P)(US) | DECISION REFUSING STATUS<br>UNDER 37 CFR 1.47(a) |

This is in response to the petition under 37 CFR 1.47(a) filed on January 10, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on August 3, 2007, without an executed oath or declaration.

Accordingly, on August 14, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, stating that the oath or declaration was required, along with a surcharge for late filing of the oath or declaration.

In response, on January 10, 2008, a three (3) month extension of time was filed, along with a declaration naming Triantafyllos Tafas, Illia Ichetovkin, Michael Kilpatrick, and Petros Tsipouras

as joint inventors, signed by all joint inventors except Ichetovkin on behalf of themselves and non-signing inventor Ichetovkin.

The present petition and surcharge was also filed.

Petitioners state that "the [non-signing] inventor listed below is not available to provide their signature to the … Declaration … due to terminated employment of the inventor and non-response to the employer's attempted correspondence to the inventor."

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), (2), and (5).

In regards to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In order for a Rule 47 petition to be granted, the inventor(s) **must** be afforded an opportunity to review the application.[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

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[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

With regards to item (5), the last known address for the non-signing inventor(s) must be provided. While an address for the non-signing inventor has been provided in the petition, petitioner's have not stated that the address provided is the last known address for the non-signing inventor. The last known address is that address at which the inventor customarily receives mail.[3] Ordinarily, the last known address will be the last known residence of the non-signing inventor.[4]

The petition fee of $200.00 will be charged to counsel's deposit account, as authorized in the present petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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[3] See MPEP 605.03.

[4] MPEP 409.03(e).

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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APR 16 2008

| | |
|---|---|
| In re Application of | : |
| Tafas et al. | : DECISION NOTING JOINDER |
| Application Number: 11/833678 | : OF INVENTOR AND PETITION |
| Filing Date: 08/03/2007 | : UNDER 37 CFR 1.47(a) MOOT |
| Attorney Docket Number: IK-164(P)(US) | : |

Papers filed on March 21, 2008, in response to the decision dismissing petition mailed on February 5, 2008, included a Declaration signed by the previously non-signing inventor, in compliance with 37 CFR 1.63.

The petition is **dismissed as moot**.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PANDUIT CORP.
LEGAL DEPARTMENT
6200 W. 175TH STREET
TINLEY PARK, IL 60477

MAILED
JUN 10 2010
OFFICE OF PETITIONS

In re Application of
Jack E. Caveney, et al.
Application No. 11/833,686
Filed: August 3, 2007
Attorney Docket No.: LCB457-CON-1

ON PETITION

This is a decision in response to the petition, filed March 29, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 20, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 21, 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.

It is noted that the present petition included a 3-month extension of time. However, extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e.

November 21, 2009. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1,730 extension fees submitted with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 3729 for appropriate action by the Examiner in the normal course of business on the reply received March 29, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER K. MARLOW
17301 S. RIDGELAND AVE.
TINLEY PARK, IL 60477

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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NOVARTIS VACCINES AND
DIAGNOSTIC, INC.
P.O. BOX 8097
4560 HORTON STREET
EMERYVILLE, CA 94608

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| | | |
|---|---|---|
| In re Application of | : | |
| Jeff Hsu, et al. | : | |
| Application No. 11/833,726 | : | ON PETITION |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. PP028230.0002 | : | |
| (27527/4196 | | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 7, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. Since a proper extension of time under the provisions of 37 CFR 1.136(a) was not obtained, the application became abandoned on November 8, 2007. A Notice of Abandonment was mailed on May 20, 2008. On June 27, 2008, the present petition was filed, including, *inter alia*, an executed Combined Declaration and Power of Attorney and $130 surcharge.

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.

In regards to item (1), above, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.[1] Specifically, there are undated alterations in the signature block for joint inventor Judy Abraham. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the inventor to whom the correction pertains (*i.e.,* joint inventor Judy Abrahmam) must be provided with any renewed petition.

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[2] |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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[1] See 37 CFR 1.52(c).

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM K. MERKEL
MARSHALL, GERSTEIN & BORUN LLP
233 WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606-6357

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of
Jeff Hsu, et al.
Application No. 11/833,726
Filed: August 3, 2007
Attorney Docket No. 27527/41965A

ON PETITION

This is a decision in response to the renewed petition, filed November 18, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned on November 8, 2007 for a failure to timely respond to a Notice to File Missing Parts mailed September 7, 2007. The notice set a two-month period to respond and required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(e). . On June 27, 2008, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 15, 2008. In response on November 18, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration and the $130 surcharge; (2) the petition fee of $1.540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed November 18, 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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JAMES C. EAVES JR.
GREENEBAUM DOLL & MCDONALD PLLC
3500 NATIONAL CITY TOWER
101 SOUTH FIFTH STREET
LOUISVILLE KY 40202

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AUG 1 1 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| McKeever, et al. | : | DECISION GRANTING STATUS |
| Application No. 11/833,738 | : | UNDER 37 CFR 1.47(a) |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. 112288.1 | : | |

This is in response to the petition captioned under 37 CFR 1.47(b), filed August 3, 2007. The petition will be treated under 37 CFR 1.47(a). Petitioners are reminded that when one joint inventor executes 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)

The petition under 37 CFR 1.47(a) is **GRANTED.**

Petitioners have shown that the non-signing inventor, Alan McKeever, 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 Technology Center AU 3677 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALAN MCKEEVER
5616 BROOKS HOLDING
MILFORD OH 45150

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AUG 1 1 2008

**OFFICE OF PETITIONS**

In re Application of
McKeever, et al.
Application No. 11/833,738
Filed: August 3, 2007
Attorney Docket No. 112288.1

LETTER

Dear Mr. McKeever:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: JAMES C. EAVES JR.
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Paper No.

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET
13TH FLOOR
STAMFORD CT 06901

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JUN 18 2008

| | |
|---|---|
| In re Application of | : |
| Ilia Ichetovkin and | : |
| Michael Kilpatrick | : DECISION NOTING JOINDER |
| Application No. 11/833,760 | : OF INVENTOR AND PETITION |
| Filed: August 3, 2007 | : UNDER 37 CFR 1.47(a) MOOT |
| Attorney Docket No. IK-165(P)(US) | : |

This is in response to the "PETITION UNDER MPEP § 1.47" filed January 14, 2008. This decision is made in light of the "COMMUNICATION REGARDING PETITION UNDER MPEP § 1.47 MAILED JANUARY 14, 2008" filed March 21, 2008.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on August 3, 2007, without an executed oath or declaration. Accordingly, on August 16, 2007, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and the surcharge for its late filing. (The Notice also 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 this petition, the petition fee and the late surcharge (and replacement drawings). This response was made timely by an accompanying petition and fee for extension of time for response within the third month. The petition included a declaration executed by joint inventor Kilpatrick on behalf of himself and on behalf of non-signing inventor Ichetovkin. Applicants assert that status under 1.47(a) is proper because joint inventor Ichetovkin is

unavailable to join in the application within the meaning of 37 CFR 1.47(a).

Prior to a decision being issued on this petition, on March 21, 2008, applicants submitted a declaration for patent executed by inventor Ichetovkin.

The declarations filed January 14, 2008 and March 21, 2008 have been reviewed and found in compliance with 37 CFR 1.63, despite a defect in the statement of the duty of disclosure. See *Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications*, 1327 OG 112 (February 12, 2008). Both declarations state that the inventor acknowledges the duty to disclose information which is "material to examination." Whereas, 37 CFR 1.63(b)(3) requires that the declaration:

> State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

With respect to this requirement, the OG Notice of February 12, 2008, cited above, states that for pending applications, the Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. The Notice further states that

> While not required, patentees and applicants are free to submit newly executed oaths or declarations with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

In view of the joinder of the inventor, further consideration under 37 CFR 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 CFR 1.47(a).

This application will be examined 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEYROT Yvan
37 rue des etudiants
COURBEVOIE 92400 FR FRANCE

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Yvan Peyrot :
Application No. 11/833,766 : ON PETITION
Filed: August 3, 2007 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on June 4, 2008.

The petition is **DISMISSED**.

The record reflects that a Notice of Allowance and Issue Fee Due was mailed August 14, 2007, allowing a shortened period for reply of two months from its mailing date. The Notice required an oath or declaration under 37 CFR 1.63 and replacement drawings to be filed, along with payment of additional claims fees and a surcharge. A response was not noted prior to the expiration of the period for reply and the application became abandoned on October 15, 2007. A Notice of Abandonment was mailed April 24, 2008.

Petitioner maintains that a timely and proper response was mailed on September 7, 2007.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of

abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner has not provided *prima facie* evidence that the response was deposited with the USPS Express Mail Service within the period for reply, and has not provided a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard showing that the response received and lost by the USPTO. It is noted that petitioner resides in France and that petitioner would not be able to mail the response pursuant to 37 CFR 1.10 or making the required certificate of mailing under 37 CFR 1.8. Petitioner, could have enclosed a postcard with the response to the Notice, as per MPEP 503, which would have been stamped by the USPTO and returned to petitioner thereby acknowledging receipt of the response. The petition cannot be granted based on the evidence submitted because there is nothing that demonstrate that a response to the Notice of Missing Parts of Non-Provisional Application was timely mailed to the USPTO and lost thereafter[1]. The petition is dismissed accordingly.

[1] The mailing receipt from Chronopost International is noted, but cannot be accepted as prima facie evidence that the response to the Notice of Missing Parts of Nonprovisional Application was mailed because there is no itemization of

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1540.00 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:

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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what was contained in the package and the tracking number for the package is not noted on coverletter for the response that was allegedly mailed.

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.



This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |
| Address | Telephone Number |
| Address | |

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

| | |
|---|---|
| Date | Signature |
| | Typed or printed name of person signing certificate |

# Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**PEYROT YVAN**
**37 RUE DES ETUDIANTS**
**COURBEVOIE 92400 FR FRANCE**

COPY MAILED

AUG 18 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Yvan PEYROT | : | |
| Application No. 11/833,766 | : | DECISION ON PETITION |
| Filed: August 03, 2007 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 14, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 15, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The additional fee(s) required for this application has not been paid as required in the Notice, mailed August 14, 2007.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE IAP79
JUL 11 2008
PATENT & TRADEMARK OFFICE

1 Fee DAC 8

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: PEYROT YVAN

Application No.: 11/833,766 Art Unit:

Filed: August 3, 2007 Examiner:

Title: DEVICE FOR SECURING AN ENCLOSED SPACE BY IDENTIFICATION

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☒ Small entity-fee $ 770 (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 June 4th, 2008.
☐ 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.*

245

07/14/2008 WABDELR1 00000003 11833766
01 FC:2453 770.00 OP

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 | 07/07/2008<br>Date |
| PEYROT YVAN<br>Typed or printed name | Registration Number, if applicable |
| 37 rue des Etudiants<br>Address | Telephone Number |
| 92400 COURBEVOIE - FRANCE<br>Address | +33 6 21 58 86 30 |

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.

07/07/2008
Date

Signature

PEYROT YVAN
Typed or printed name of person signing certificate

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11833766 Total Records Found: 4

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 07/14/2008 | 00000003 | 1 | 2453 | $770.00 | 07/11/2008 | CC |
| 08/06/2007 | 00003202 | 4 | 4011 | $75.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003203 | 4 | 2111 | $250.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003204 | 4 | 2311 | $100.00 | 08/03/2007 | CC |

Best Available Copy

OIPE
JUN 04 2008
PATENT & TRADEMARK OFFICE

**Yvan Peyrot**
37 rue des Etudiants
92400 Courbevoie
France
Application number : 11/833,766
Filing date : 08/03/2007

United States Department of Commerce
United States Patent and Trademark Office
**Mail Stop Missing Parts**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
UNITED STATES

Courbevoie, 7 September 2007

**OATH**

I declare, Yvan Peyrot, living 37 rue des Etudiants, 92400 Courbevoie, France, that I am the first and only inventor of my electronic device I want to patent, untitled « device for securing an enclosed space by identification ».

I have reviewed and understood the contents of the application, including the claims, since I have written them myself.

I acknowledge the duty to disclose to the Office all information known to the person to be material to patentability.

I stay at your disposal for any other information.

Best regards,

Yvan PEYROT

OIPE IAP40
OCT 07 2008
PATENT & TRADEMARK OFFICE

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

**PEYROT YVAN**
**37 RUE DES ETUDIANTS**
**COURBEVOIE 92400 FR FRANCE**

COPY MAILED
AUG 18 2008
OFFICE OF PETITIONS

In re Application of
Yvan PEYROT
Application No. 11/833,766
Filed: August 03, 2007
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 14, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 15, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The additional fee(s) required for this application has not been paid as required in the Notice, mailed August 14, 2007.

10/08/2008 MBELETE1 00000051 11833766
01 FC:2252 245.00 OP

OIPE IAP40
OCT 07 2008
PATENT & TRADEMARK OFFICE

**Yvan PEYROT**
37 rue des Etudiants
92400 Courbevoie
France
Phone : + 33 6 21 58 86 30
Application number : 11/833,766
Filing date : 08/03/2007

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
UNITED STATES

September 26, 2008

**Supplemental Submission in support of the renewed petition under 1.137 (b).**

I undersigned, Yvan Peyrot, authorise the USPTO to charge $ 245 + any additional fee increases for the items for which the fees are due.

Mr Yvan PEYROT

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

**PEYROT YVAN**
**37 RUE DES ETUDIANTS**
**COURBEVOIE 92400 FR FRANCE**

**RECEIVED**

DEC 22 2008

**OFFICE OF PETITIONS**

In re Application of
Yvan PEYROT
Application No. 11/833,766
Filed: August 03, 2007
Attorney Docket No.

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 14, 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 October 15, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1). The office regrets the lack of specificity in the previous decision in regard to the lack of required reply noted therein.

The Notice required a properly executed Oath/Declaration to be submitted. However, the document captioned as "Oath" filed June 04, 2008, is not in compliance with 37 CFR 1.63. See MPEP § 602. A form PTO/SB/01 is enclosed with this decision for use by the Petitioner.

The Notice also required submission of replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.21(d). The drawings filed June 04, 2008 are not in compliance with 37 CFR 1.21(d) in that each of the replacement drawing sheets filed lacks the heading "Replacement Sheet".

As authorized, the amount of $245 has been charged to the credit card.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/01

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11833766 Total Records Found: 5

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 10/08/2008 | 00000133 | 1 | 2252 | $245.00 | 10/07/2008 | CC |
| 07/14/2008 | 00000003 | 1 | 2453 | $770.00 | 07/11/2008 | CC |
| 08/06/2007 | 00003202 | 4 | 4011 | $75.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003203 | 4 | 2111 | $250.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003204 | 4 | 2311 | $100.00 | 08/03/2007 | CC |

OIPE IAP7
SEP 23 2008
PATENT & TRADEMARK OFFICE

IFW DAE

**Yvan PEYROT**
37 rue des Etudiants
92400 Courbevoie
France
Phone : + 33 6 21 58 86 30
Application number : 11/833,766
Filing date : 08/03/2007

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
UNITED STATES

September 15, 2008

I write to you this mail because I am really disappointed.

I have recently received your mail dated August 18, 2008, saying that my petition is dismissed because "the application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application", mailed August 14, 2007, although I did send the missing parts required on September 10, 2007 (so in due time within the two months). Since I received this mail, I have tried to reach Mrs Tredelle Jackson many times on the phone, but in vain.

Let me remember the facts : I have filed my invention on August 3, 2007.

The USPTO sent me a letter on August 14, 2007, asking me to send missing parts (an oath and drawings to correct in a due format) as well as to pay additional fees ($ 245) within two months. I sent you all these elements on September 10, 2007 (I have the postmark in my possession). My sending of September 10, 2007 contained the missing parts required (the oath, the corrected drawings and a letter asking for your bank details to do a bank transfer and giving you my visa card number and its expiring date for a debit of the $ 245).

However, I received a notice on April 24, 2008 saying that my petition was dismissed because you never received the missing parts and the $ 245 requested.

So I have called the USPTO to know what happened, since apparently either the USPTO or the post service had lost my sending of September 10, 2007 containing all these required elements, which caused this dismissal.

I was told on the phone that the only solution was to make a "petition for revival of an application for patent abandonded unintentionnaly under 37 CFR", which I sent you on May 20, 2008 (petition for revival + copies of my mail sent on September 10, 2007 containing the missing parts and the payment).

Then I received a letter requesting $ 770 to pay this petition for revival. Despite my astonishment for having to pay again although it was not my fault if you did not receive my missing parts and payment sent on due time (September 10, 2007), and after calling the USPTO which maintained that if I payed this amount everything would be fine then, I sent you on July 8, 2008 a " 2038 - Credit Card Payment Form " to pay the required $ 770 and the $ 245 you had never debited me.

I was surprised to see that on July 14, 2008 you debited me only $ 770 instead of $ 1,015 ($ 770 + $ 245). So I called and had a telephone conversation with Mr KNIGHT, the supervisor, who assured me the amount of the debit was normal since the USPTO had not treated my file yet, and had only debited the amount corresponding to the petition for revival, but once the USPTO has treated my file, I would be debited of the $ 245 left. Then I received your letter dated August 18, 2008, saying that my petition was dismissed, at my great disappointment.

I precise that every telephone conversations between me (Yvan Peyrot, the inventor) and the USPTO were made by Julie Dufour, my personal assistant (who is also a translator), since I do not speak good English.

In consequence, I would be grateful if you could clear up the situation, resolve the problem and eventually patent my invention, since I have paid everything and given every elements within the required time.

Please note that patenting my invention is very crucial for me and for my business.

I thank you for your time and attention for my file, which was so far unfairly considered.

Best regards,

Yvan PEYROT

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

**PEYROT YVAN**
**37 RUE DES ETUDIANTS**
**COURBEVOIE 92400 FR FRANCE**

| | | |
|---|---|---|
| In re Application of | : | |
| Yvan PEYROT | : | |
| Application No. 11/833,766 | : | DECISION ON PETITION |
| Effective Date: August 03, 2007 | : | |
| Attorney Docket No. | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 14, 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 October 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, drawings and declaration , (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of August 14, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE IAP79
JAN 2 1 2009
PATENT & TRADEMARK OFFICE

1st DAC

**Yvan PEYROT**
37 rue des Etudiants
92400 Courbevoie
France
Phone : + 33 6 21 58 86 30
Application number : 11/833,766
Filing date : 08/03/2007

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
UNITED STATES

January 9, 2009

**Renewed Petition under 37 CFR 1.137 (b).**

Following your mail dated December 22, 2008, please find enclosed:

- a properly filled out oath/declaration

- my drawings with the heading "Replacement Sheet" on top of each page.

The amount of $ 65 for the late submission of oath/declaration was previously included in the $ 245 you debited me at the beginning of October 2008, but I authorize you to charge any additional fee increases for the items for which the fees are due.

Please do not hesitate to contact me by phone (+ 33 6 21 58 86 30) or e-mail (yvan@ass-securite.fr) if anyhting is still lacking.

Mr Yvan PEYROT

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11833766 Total Records Found: 5

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 10/08/2008 | 00000133 | 1 | 2252 | $245.00 | 10/07/2008 | CC |
| 07/14/2008 | 00000003 | 1 | 2453 | $770.00 | 07/11/2008 | CC |
| 08/06/2007 | 00003202 | 4 | 4011 | $75.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003203 | 4 | 2111 | $250.00 | 08/03/2007 | CC |
| 08/06/2007 | 00003204 | 4 | 2311 | $100.00 | 08/03/2007 | CC |

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

**PEYROT YVAN**
**37 RUE DES ETUDIANTS**
**COURBEVOIE 92400 FR FRANCE**

MAILED
FEB 10 2009
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Yvan PEYROT | : | |
| Application No. 11/833,766 | : | DECISION ON PETITION |
| Effective Date: August 03, 2007 | : | |
| Attorney Docket No. | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 14, 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 October 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, drawings and declaration , (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of August 14, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783

This application is being referred to the Office of Patent Application Processing.

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
www.uspto.gov

1 9 SEP 2008

SERIOUS USA, INC.
c/o TORYS LLP
SUITE 3000 , P.O.BOX 270
79 WELLINGTON STREET WEST , TD CENTRE
TORONTO ON M5K 1N2 CA CANADA

| | | |
|---|---|---|
| In re Application of | : | |
| BOHLKE et al. | : | |
| Application No.: 11/833,772 | : | |
| Filed: August 03, 2007 | : | DECISION ON PETITION |
| Attorney Docket No.: 34430-2139 | : | |
| For: OPTICAL DISC MAILCARD | : | |
| | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 14, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). 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(s), unless previously submitted;

**(2)** the surcharge set forth in § 1.17(t); and

**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Boris Milef
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
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J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| WANG et al. | : | |
| Application No. 11/833,805 | : | NOTICE |
| Filed: 08/03/2007 | : | |
| Attorney Docket No. JCLA24189 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 13, 2007.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
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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**KILPATRICK STOCKTON LLP**
**1001 WEST FOURTH STREET**
**WINSTON-SALEM NC 27101**

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OCT 0 7 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Randall James Lanham | : | DECISION ON PETITION |
| Application No. 11/833,817 | : | TO WITHDRAW |
| Filed: August 3, 2007 | : | FROM RECORD |
| Attorney Docket No. 57489-335881 | : | |

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, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Kilpatrick Stockton LLP does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Kilpatrick Stockton LLP not having power of attorney. See MPEP §§ 601.03 and 405.

Accordingly, all future communications from the Office will be directed solely to the above current address of record until proper instructions have been received.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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**OFFICE OF PETITIONS**

In re Application of
Kim et al.
Application No. 11/833,849
Filed: August 3, 2007
Attorney Docket No. IK-166(P)(US)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 14, 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(s) (1) set forth above.

Pursuant to petitioner's request deposit account no. 11-0404 will be charged the $200.00 petition fee and the $65.00 surcharge fee.

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventors. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventors Ichetovkin, Zhu,Armstrong and Macginite, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate the non-signing inventors. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has

access to the inventors' personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventors' last known addresses. Therefore, at the very least, petitioner should mail correspondence to the inventors' last known addresses, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to the inventors' addresses, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

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.

It should be noted the declaration provided on petition included language duty to disclose information "material to examination". All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. See. 1327 O.G. 112 (February 12, 2008).

Further correspondence with respect to this matter should be addressed as follows:

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Post Office Box 1450
Alexandria, VA 22313-1450

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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

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OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

| | | |
|---|---|---|
| In re Application of | : | |
| Kim et al. | : | DECISION REFUSING STATUS |
| Application No. 11/833,849 | : | UNDER 37 CFR 1.47(a) |
| Filed: August 3, 2007 | : | |
| Attorney Docket No. IK-166(P)(US) | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 10, 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(s) (2) set forth above.

As to item (2), the declaration contains alterations. 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 MPEP 605.04(a). Although petitioner has provided a supplemental application data sheet, the data sheet is not signed. An ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

On renewed petition, a new oath or declaration executed by inventor Armstrong or a signed supplemental application data sheet is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

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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
Petitions Attorney
Office of Petitions

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STAMFORD CT 06901

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**OFFICE OF PETITIONS**

In re Application of
Kim et al.
Application No. 11/833,849
Filed: August 3, 2007
Attorney Docket No. IK-166(P)(US)

DECISION ON PETITONS

This is in response to the petitions filed under 37 CFR 1.137(b) and 37 CFR 1.47(a), filed February 19, 2009.

The petitions are **DISMISSED**.

**PETITION UNDER 37 CFR 1.47**

The petition under 37 CFR 1.47 is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

The petition decision mailed on May 13, 2008 required that petitioner submit either a signed declaration from inventor Armstrong or a signed (pursuant to 37 CFR 1.33(b)) supplemental application data sheet providing the address of inventor Armstrong pursuant to 37 CFR 1.76. A review of the record shows that the Office is not in receipt of either.

**PETITION UNDER 37 CFR 1.137(b)**

The petition filed under 37 CFR 1.137(b) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

As to item (1), the reply in this instance is a grantable petition under 37 CFR 1.47 or a complete joinder. Since the petition under 1.47 or a joinder cannot be granted at this point, the petition under 37 CFR 1.137(b) cannot be granted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 19 2009

OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

In re Application of
Kim et al.
Application No. 11/833,849
Filed: August 3, 2007
Attorney Docket No. IK-166(P)(US)
For: Methods For Detecting Fluorescent Signals In A Biological Sample

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) was filed on May 22, 2009. Papers filed on April 10, 2008 included a Declaration signed by a previously non-signing inventors, Ichetovkin, Zhu, Armstrong and Macginitie, in compliance with 37 CFR 1.63. The application was also supplemented with a supplemental application data sheet.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

This application is being referred to the Office of Patent Application Processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 19 2009

OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

In re Application of :
Kim et al. :
Application No. 11/833,849 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. IK-166(P)(US) :
For: Methods For Detecting Fluorescent :
Signals In A Biological Sample

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Petition decision mailed on May 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 a joinder petition, (2) the petition fee of 810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Patent Application Processing for pre-exam processing.

Charlema Grant
Petitions Attorney
Office of Petitions

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**Leyendecker & Lemire, LLC**
**C/O Portfolio IP**
**P.O. Box 52050**
**Minneapolis, MN 55402**

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| | | |
|---|---|---|
| In re Application of | : | |
| Jeff Rodriquez et al. | : | |
| Application No. 11/833,877 | : | ON PETITION |
| Filed: August 03, 2007 | : | |
| Attorney Docket No. JR-0-001 | : | |

This is a decision on the petition under 37 CFR 1.137(a), filed September 23, 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 August 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of replacement drawings; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to OIPE for appropriate action in the normal course of business on the reply received

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kurt Leyendecker
9137 E Mineral Circle Suite 280
Centennial, CO 80122

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Kung-hong Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598795 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/833,889 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/03/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 18 2007

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MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO CA 94306

| | |
|---|---|
| In re Application of | : |
| Michelle L. R. Heffernan et al | : |
| Serial No.: 11/833,903 | : PETITION TO MAKE SPECIAL |
| Filed: August 3, 2007 | : |
| Attorney Docket No.: 65622-5011-US | : |

This is a decision on the petitions filed on August 3, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a **newly** filed non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it is a new application filed electronically, however the application is incomplete as evidenced by the Missing Parts letter mailed August 8, 2007. The application was filed without the required Oath or Declaration and is not complete or ready for examination.

The application will therefore be taken up by the examiner for action in its regular turn, when complete.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 5000

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P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 28 2007

MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO CA 94306

| | |
|---|---|
| In re Application of | : |
| Michelle L. R. Heffernan et al | : |
| Serial No.: 11/833,903 | : PETITION TO MAKE SPECIAL |
| Filed: August 3, 2007 | : |
| Attorney Docket No.: 65622-5011-US | : |

This is a decision on the petition filed on August 3, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The petition decision mailed September 18, 2007, is hereby vacated.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in an agreement that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a Final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the Final Office action, applicant must: 1) promptly file a Notice of Appeal, an Appeal Brief and Appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after Final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a Final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 5000

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed: March 10, 2008

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

Applicant: Han
Appl. No.: 11/833,908
Filing Date: August 3, 2007
Title: MULTI-TOUCH SENSING DISPLAY THROUGH FRUSTRATED TOTAL INTERNAL REFLECTION
Attorney Docket No.: 27228-000-A1
Pub. No.: US 2008/0029691 A1
Pub. Date: February 7, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on March 3, 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

```
Adjustment date: 03/10/2008  KKING1
03/03/2008 INTEFSW  00010257 11833908
01 FC:1504                      -300.00 OP


Refund Ref:
03/10/2008  KKING1    0000161615
----------------------------------------

     CHECK Refund Total:      $300.00
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SEP 30 2009

OFFICE OF PETITIONS

HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

| | | |
|---|---|---|
| In re Application of | : | |
| John W. Fisher, Jr. | : | |
| Application No. 11/833,949 | : | DECISION ON PETITION |
| Filed: August 3, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 559-003-USP | : | FROM RECORD |
| | : | |

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 7, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard J. Holzer, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 2, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **John W. Fisher**
**1401 Pearl Street**
**Boulder, CO 80302**

cc: **Peak8 Partners, LLC**
**c/o Ronald Renjillian**
**2432 Bitterroot Circle**
**Lafayette, CO 80026**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/833,949 | 08/03/2007 | John W. Fisher JR. | 559-003-USP |

**CONFIRMATION NO. 8794**

**POWER OF ATTORNEY NOTICE**

45346
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

*OC000000038040996*

Date Mailed: 09/29/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/24/08

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11833956 Patent No.: 7421199 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.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:**

Approved:

(1) Changes to Column 9 line 60 have been approved.

(2) Changes to Claims 1, 7 and 22 have been approved.

(3) Changes to Claim 32, Column 18 lines 4-5 have been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Denied:

(1) Changes to Assignee not approved.

Applicant must comply with 37 CFR 3.81(b).

(2) Changes to Claim 32, Column 17 line 18 through column 18 line 1-3 not approved.

Changes in claim scope requires further consideration and/or search.

10/29/08

KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

SPE Art Unit

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Commissioner for Patents
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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 Patent No. 7,421,199 | : | |
| Issue Date: September 02, 2008 | : | |
| Application No. 11/833,956 | : | DECISION ON PETITION |
| Filed: August 03, 2007 | : | |
| Attorney Docket No. **021822-000510US** | : | |

This is a decision on the petition, filed, November 24, 2008, which is being treated as a 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 to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the assignee's name is "FutureWei Technologies, Inc., Plano, TX (US)" and that the assignee's name was not 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.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "FutureWei Technologies, Inc., Plano, TX (US)" 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 Michelle R. Eason at (571) 272-4231. 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.

Thurman Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

**IP Advisors**
**Christopher Haigh**
**150 N. Michigan Ave.**
**Suite 2800**
**Chicago, IL 60601**

| | | |
|---|---|---|
| In re Application of | : | |
| Nicholas V. Muscarella, et al. | : | |
| Application No. 11/833,960 | : | DECISION ON PETITION |
| Filed: August 3, 2007 | : | TO WITHDRAW |
| Attorney Docket No. Stein1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Christopher E. Haigh 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 Nicholas V. Muscarella at 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: **Nicholas V. Muscarella**
**2038 N. Clark, #105**
**Chicago, IL 60614**

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/833,960 | 08/03/2007 | Nicholas V. Muscarella | Stein1 |

**CONFIRMATION NO. 8821**

**POWER OF ATTORNEY NOTICE**

*OC000000039028162*

62549
IP Advisors
Christopher Haigh
150 N. Michigan Ave.
STE. 2800
CHICAGO, IL 60601

Date Mailed: 12/01/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

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Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

## Application Information

| | | | | | |
|---|---|---|---|---|---|
| Application Number | 11833965 | Confirmation Number | 8829 | Filing Date | 2007-08-03 |
| Attorney Docket Number (optional) | | Art Unit | | Examiner | |
| First Named Inventor | Mario Rabinowitz | | | | |
| Title of Invention | Sealants for Solar Energy Concentrators and Similar Equipment | | | | |

**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 |
|---|---|---|---|
| Mario | | Rabinowitz | |

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 | /Mario Rabinowitz/ | Date (YYYY-MM-DD) | 2008-08-01 |
| Name | Mario Rabinowitz Age 71, born 1936-10-24 | | |

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

# 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

In re Application of
Mario Rabinowitz

Application No. 11833965

Filed: August 3,2007

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 01-AUG-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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. |
|---|---|---|---|---|
| 11/834,068 | 08/06/2007 | Lance E. Steward | 17311CIP5(BOT) | 9088 |

7590 08/28/2008

ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

| EXAMINER |
|---|
| KAM, CHIH MIN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1656 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/28/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

```
Adjustment Date: 08/29/2008  BPOWELL
08/06/2007 INTEFSW  00005383 010885   11834068
02 FC:1111        500.00 CR
05 FC:1202       1350.00 CR
06 FC:1203        360.00 CR
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Adjustment date: 08/29/2008  BPOWELL
08/06/2007 INTEFSW  00005383 010885   11834068
02 FC:1111        500.00 CR
05 FC:1202       1350.00 CR
06 FC:1203        360.00 CR
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FORM PET651G (Rev. 08/07)

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**BRIAN M. DINGMAN**
**MIRICK O'CONNELL DEMALLIE &**
**LOUGEE LLP**
**1700 WEST PARK DRIVE**
**WESTBOROUGH MA 01581**

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FEB 1 2 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Seth VOLTZ, et al | : | |
| Application No. 11/834,121 | : | DECISION ON PETITION |
| Filed: August 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 20554-00007 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 8, 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 Brian M. Dingman on behalf of the attorneys of record associated with Customer No. 28534.

The attorneys of record associated with Customer No. 28534 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: SETH VOLTZ
164 B.E. CENTRAL STREET
NATICK, MA 01760

cc: JESSE D. HURLEY
C/O ANAMORPHIC SYSTEM, INC.
2323 FLICKINGER AVENUE
SAN JOSE, CA 94131

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:

**DATE** :

**TO SPE OF** : ART UNIT

**SUBJECT** : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**GLOBAL IP COUNSELORS, LLP**
**1233 20TH STREET, NW, SUITE 700**
**WASHINGTON, DC 20036-2680**

MAILED

APR 19 2010

OFFICE OF PETITIONS

In re Application of :
**Daisuke KISHIKAWA**, et *al.* :
Application No. 11/834,146 :
Filed: August 6, 2007 :
Attorney Docket No. **NC-US061052** :

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 April 16, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on March 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2885 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**ALLISON JOHNSON, P.A.**
**LAKE CALHOUN EXECUTIVE CENTER**
**3033 EXCELSIOR BLVD., SUITE 467**
**MINNEAPOLIS MN 55416**

**COPY MAILED**

OCT 0 9 2008

**OFFICE OF PETITIONS**

In re Application of
**WOLF,** David E. et al.
Application No. 11/834,168
Filed: August
Attorney Docket No. **205-010US3**

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 18, 2008 and re-submitted on October 06, 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 Allison Johnson, the sole attorney of record. Allison Johnson has been withdrawn as attorney or agent of record. 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 the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID E. WOLF**
**285 CONCORD ROAD**
**SUDBURY MA 01776**

cc: **SENSOR TECHNOLOGIES LLC**
**910 BOSTON TURNPIKE**
**SHREWBURY MA 01545**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BROOKS KUSHMAN P.C.**
**1000 TOWN CENTER**
**TWENTY-SECOND FLOOR**
**SOUTHFIELD MI 48075**

COPY MAILED
JUL 21 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Karl Siegfried Schroeder | : | |
| Application No. 11/834,192 | : | DECISION ON PETITION |
| Filed: August 6, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. SCKA 0101 PUSP | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 6, 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 3753 for action on the merits commensurate with this decision.

Terri 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
www.uspto.gov

STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yongshik Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655361 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/834,200 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yiping Zhao | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656525 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/834,233 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 05/18/2010

**Applicant** : Yiping Zhao
**Patent Number** : 7656525
**Issue Date** : 02/02/2010
**Application No** : 11/834,233
**Filed** : 08/06/2007

: 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 **342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARESTREAM HEALTH INC,
150 VERONA STREET
ROCHESTER NY 14608

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MAR 3 1 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Chen, et al. | : | |
| Application No. 11/834,243 | : | ON PETITION |
| Filed: 6 August, 2007 | : | |
| Attorney Docket No. 92191SLP | : | |

This is a decision on the petition filed on 31 January, 2008, under 37 C.F.R. §1.47(a).

For the reasons discussed above and set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47."

Petitioner's attention is drawn to the concerns that, *inter alia*, it is clear from Petitioner's statement that the entire application (description, claims, abstract and drawings) was not sent to the non-signing inventor—such that as of this writing the showing does not satisfy the statutory, regulatory and policy requirements set forth (see, also: the guidance in the Commentary at MPEP §409 et seq.).

## BACKGROUND

The record indicates:

- the instant application was filed on 6 August, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 31 August, 2007 the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 31 January, 2007, Petitioner Susan L. Parulski (reg. 39,324) filed, *inter alia*, an oath/declaration signed by co-inventors Chen, Sun Chu, Ray, Zheng and Shen on for themselves and on behalf of non-signing inventor Daoxian eidi Zhang but the statement clearly evidences that Petitioner sent only the oath/declaration (and, possibly, assignment) and not the entire application (description, claims, abstract and drawings) to the non-signing inventor at a reasonably believed to be/last known/valid postal address to which to transmit application; (note: transmittal of materials via Email are acceptable only in light of express acknowledgement of receipt;) —and in absence of that information properly set forth it also is not possible for the Office to determine if the showing as to the diligent effort to present a copy of the entire application (description, claims, abstract and drawings) was satisfied as required under law, regulation and the guidance of the Manual of Patent Examining Procedure (see, also: the guidance in the Commentary at MPEP §409 et seq.).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation) since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

---

[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.

Application No. 11/834,243

## ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

(See, also: 37 C.F.R. §1.63.)

Further, when one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

**Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.**

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. (The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3])

***Petitioner's attention is directed to the discussion in the NOTES, BACKGROUND and ANALYSIS, above, and Petitioner should ensure that the deficiencies addressed there are corrected with any future petition herein***, to include (but not necessarily be limited to) documentation of the effort to present the entire application (description, claims, abstract and drawings) to the non-signing inventor, as well as evidence supporting the selection of a

[3] See: MPEP 409.03(b).

reasonably believed to be/last known/valid postal address to which to transmit application; in the absence of that information properly set forth it also is not possible for the Office to determine if the showings as to the diligent effort to present a copy of the entire application (description, claims, abstract and drawings) was satisfied as required under law, regulation and the guidance of the Manual of Patent Examining Procedure (see, also: the guidance in the Commentary at MPEP §409 et seq.).

## CONCLUSION

Therefore, the instant petition hereby is **dismissed**, and Petitioner is respectfully requested to make a showing as discussed above, and, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements in any future petition herein under 37 C.F.R. §1.47.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Application No. 11/834,243

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.23) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

3 The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

CARESTREAM HEALTH, INC.
PATENT LEGAL STAFF
150 VERONA STREET
ROCHESTER NY 14608

| | | |
|---|---|---|
| In re Application of | : | |
| Chen, et al. | : | DECISION ON PETITION |
| Application No.: 11/834,243 | : | |
| Filed: 6 August, 2007 | : | |
| Attorney Docket No. 92191SLP | : | |

This is the decision in response to the petition under 37 C.F.R. §1.47(a), filed on 5 May, 2008.

The petition as considered under 37 C.F.R. §1.47(a), is **GRANTED.**

Petitioner has shown that the remaining non-signing inventor has not replied and thus constructively have 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 of the remaining non-signing inventor, and that the non-signing inventor has since failed and, thus, constructively refused to join in the filing of the above-identified application.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus,

now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **granted**.

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 19 2008
OFFICE OF PETITIONS

DAOXIAN HEIDI ZHANG
367 PENN WAY
LOS GATOS, CA 95032

| | | |
|---|---|---|
| In re Application of | : | |
| Chen, et al. | : | COMMUNNICATION |
| Application No.: 11/834,243 | : | |
| Filed: 6 August, 2007 | : | |
| Attorney Docket No. 92191SLP | : | |

Dear Daoxian Heidi Zhang:

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:
CARESTREAM HEALTH, INC.
PATENT LEGAL STAFF
150 VERONA STREET
ROCHESTER NY 14608

[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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**NORRIS MCLAUGHLIN & MARCUS, P.A.**
**721 ROUTE 202-206**
**P.O.BOX 5933**
**BRIDGEWATER NJ 08807-5933**

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JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **SILVA,** Carlos D. | : | |
| Application No. 11/834,287 | : | DECISION ON PETITION |
| Filed: August 06, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **101727-2(4) USC** | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Bruce S. Londa on behalf of all attorneys of record who are associated with customer No. 23526. 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 Carlos D. Silva at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CARLOS DANIEL SILVA**
**CALLE 43N, 183 LA PLATA**
**BUENOS AIRES, ARGENTINA**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MICAH PAUL ANDERSON**
**5736 FAIRWAY DRIVE**
**SOUTH BELOIT IL 61080**

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Michael P. ANDERSON :
Application No. 11/834,375 :
Filed: August 06, 2007 :
Attorney Docket No. TB 0103 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 17, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required corrected application papers; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of August 17, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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**Harness, Dickey & Pierce, P.L.C.**
**P.O. Box 8910**
**Reston, VA 20195**

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JUN 1 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Yong Min Cho, et al. | : | |
| Application No. 11/834,423 | : | DECISION ON PETITION |
| Filed: August 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 6185-000002/US/01 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Castellano 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 t at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yong Min Cho**
**16605 Sea Island Court**
**Silver Spring, MD 20905**

cc: **Thomas S. Auchterlonie**
**Lee & Morse, P.C.**
**3141 Fairview Park Drive, Suite 500**
**Falls Church, VA 22042**

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/834,423 | 08/06/2007 | Yong Min CHO | 6185-000002/US/01 |

**CONFIRMATION NO. 9720**

Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

**POWER OF ATTORNEY NOTICE**

*OC000000030437086*

Date Mailed: 06/12/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2008.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Li, et al. | : | |
| Application No. 11/834,446 | : | DECISION |
| Filed/Deposited: 6 August, 2007 | : | |
| Attorney Docket No. BMRK-002/02US | : | |
| 305167-2033 | | |

This is a decision on the petition filed 16 June, 2008, seeking to have accorded a filing date of 26 November, 2007, for the above-identified application based upon a showing that the omitted drawing/figures were present in the prior-filed co-pending nonprovisional application to which this application claimed benefit (under 37 C.F.R. §1.78) on filing.

For the reasons stated herein, the petition is **DISMISSED**.

Application papers in the above-identified application were deposited on 6 August, 2007.

On 14 April, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because it had been deposited without drawing as required under 35 U.S.C. §113 (first sentence). The Office indicated that Petitioner could demonstrate on petition the presence of the drawings/figures by presentation of evidence of deposit (e.g., date-stamped receipt card, EFS Acknowledgement Receipt); or submit the drawings/figures and accept the date of submission as the filing date. The Office gave Petitioner two (2) months within which to reply.

On Monday, 16 June, 2008, Petitioner filed, *inter alia*, the instant petition with fee, and amendment and 2 sheets of drawings, FIGS. 1-2, averred to be a copy from the parent of the previously omitted drawings FIGS. 1-2, from, *inter alia*, the parent/previously-filed Nonprovisional Application No. 10/180,753 (the '753 application), filed on 26 June, 2002 (however, that application does not appear to be in pending status as of this writing), and PCT/US02/22270 (filed on 26 June, 2002), to which application a priority claim was made in the instant application.

Petitioner asserts that the drawing/figures were inadvertently omitted from the instant application; and points to the prior filed international application PCT/US02/22270, and now seeks to obtain an incorporation by reference herein under the provisions of 37 C.F.R. §1.57(a). Petitioner appears to have filed an amendment under the rule.

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/process/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.

The express incorporation by reference entitled Petitioner to file an amendment under 37 C.F.R. §1.57(b) to add the subject matter of the non-provisional application into the disclosure of this application. Please note that no petition is required for that purpose and that the amendment must comply with 37 C.F.R. §1.57(b) and 37 C.F.R. §1.121 (*See*: MPEP §201.06(c)(IV).) Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

The Petition fee is waived and is refunded via Deposit Account 50-1283. 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.

Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to 6 August, 2007**;
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **issuance of a filing receipt.**

It is also noted that the drawings filed on 16 June, 2008, are not considered to be an amendment to the application and are not in compliance with 37 C.F.R. §1.121. (*See*: *inter alia*, 37 C.F.R.

§1.121(d).) However, when Petitioner submits an amendment to enter drawings into this application, entry of that amendment will be determined by the Examiner.

Telephone inquiries concerning this matter should be directed to John J Gillon, Jr., attorney, at (571) 272-3214.

Anthony Knight
Supervisor
Office of Petitions

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**P.O. BOX 8910**
**RESTON, VA 20195**

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**OFFICE OF PETITIONS**

In re Application of

**CHO,** Yong Min et al.
Application No. 11/834,476

Filed: August 06, 2007
Attorney Docket No. **6185-000002/US/04**

CORRECTED
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 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Castellano on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated with the Customer Number 30593 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: **YONG M. CHO**
**16605 SEA ISLAND COURT**
**SILVER SPRING, MD 20905**

cc: **THOMAS S. AUCHTERLONIE**
**LEE & MORSE, P.C.**
**3141 FAIRVIEW PARK DRIVE**
**FALLS CHURCH, VA 22042**

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**HARNESS, DICKEY & PIERCE, P.L.C.**
**P.O. BOX 8910**
**RESTON, VA 20195**

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**OFFICE OF PETITIONS**

In re Application of

**CHO,** Yong Min et al.
Application No. 11/834,476
Filed: August 06, 2007
Attorney Docket No. **6185-000002/US/04**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 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 Castellano on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated with the Customer Number 30593 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.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **YONG M. CHO**
**16605 SEA ISLAND COURT**
**SILVER SPRING, MD 20905**

cc: **THOMAS S. AUCHTERLONIE**
**LEE & MORSE, P.C.**
**3141 FAIRVIEW PARK DRIVE**
**FALLS CHURCH, VA 22042**

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HARTMAN & HARTMAN, P.C.
552 EAST 700 NORTH
VALPARAISO, IN 46383

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Kenneth C. Schroeder | : | |
| Application No. 11/834,481 | : | DECISION ON PETITION |
| Filed: August 6, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. A7-2313 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 8, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1792 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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**OFFICE OF PETITIONS**

In re Application of :
Kyle et al. :
Application No. 11/834,509 :
Filed: August 6, 2007 :
Attorney Docket No. 96600/29UTL :
For: Cooling Apparatus For Microwave :
Chromotography :

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 February 8, 2008.[1]

The petition is **DISMISSED**.

Facts:

The application was filed on August 6, 2007, with an executed or unexecuted oath or declaration.

A Notice to File Missing Parts was mailed August 17, 2007. The Notice stated, "The oath or declaration is missing." The Notice required the submission of an executed oath or declaration in addition to fees listed in the Notice. The Notice set a period for reply of two (2) months from the mail date of the Notice.

The fees required in the Notice to File Missing Parts were filed October 16, 2007. However, the reply filed October 16, 2007 did not include any oath or declaration.

A Notice of Incomplete Reply was mailed October 30, 2007. The Notice stated, "The oath or declaration is missing." The Notice required the submission of an executed oath or declaration. The Notice stated the period for reply remained the time period set forth in the August 17, 2007 Notice.

The instant petition and a request for a four-month extension of time were filed February 8, 2008. The petition is not accompanied by any oath or declaration. Instead, the petition states the petition is a request for the Office "to accept the previously filed declaration without the

[1] 37 CFR 1.47(b) is only available where none of the inventors sign the oath or Declaration. Since the petition only alleges one of the five inventors will not sign the declaration, the petition is appropriately treated under 37 CFR 1.47(a). MPEP 409.03(b).

signature of inventor Michael King." However, Office records fail to indicate any declaration has been filed.

The application is abandoned.

Since an oath or declaration has not been submitted in response to the Notice of Missing Parts, the application is abandoned as of February 18, 2008.

35 USC 111(a)(4) sets forth that, as here, when an applicant receives notice to file an oath or declaration, but does not supply the missing oath or declaration, the application becomes abandoned by operation of the law. The mere filing of a petition under 37 CFR 1.47 does not change this result. A petition under 37 CFR 1.47 *requires an oath or declaration as a component of the petition.* Accordingly, the mere filing of the petition under 37 CFR 1.47, in reply to the Notice, was not a proper reply to the Notice. Rather, in the instance where all of the named inventors will not sign a declaration, a proper reply to the Notice consists of **both** a petition under 37 CFR 1.47, and an oath or declaration.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (an oath or declaration), the required petition fee ($1,540 for a large 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. A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

The petition under 37 CFR 1.47(a) is dismissed.

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).

As to item (1), petitioner has failed to provide any proof King refused to sign the declaration. When a petition alleges an inventor has refused to sign an oath or declaration, an affidavit or declaration by the person to whom the refusal was made should be filed. The affidavit or declaration should fully discuss the refusal and the circumstances of the refusal. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in an affidavit or declaration.

As to item (2), an oath or declaration has not been filed.

As to item (3), the petition fee of $200 has been charged to petitioner's deposit account.

As to item (4), the petition fails to list the last known address for inventor King. The Office notes the address for King is not listed on the Application Data Sheet filed August 6, 2007.

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.

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

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

Attached: Form PTO/SB/64 (Petition Under 37 CFR 1.137(b))
Privacy Act Notice

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.



This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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OCT 1 6 2008

**OFFICE OF PETITIONS**

In re Application of :
Kyle et al. :
Application No. 11/834,509 :
Filed: August 6, 2007 :
Attorney Docket No. 96600/29UTL :
For: Cooling Apparatus For Microwave :
Chromotography :

Decision Reviving Application and Dismissing Request for Status Under 37 CFR 1.47(a) as Moot

This is a decision on the petition under 37 CFR 1.47(a), filed September 29, 2008, as supplemented on October 1, 2008, and October 10, 2008. This is also a decision on the petition on the petition under 37 CFR 1.137(b) filed October 1, 2008, and a decision on the petition under 37 CFR 1.182 filed October 1, 2008.

The petition under 37 CFR 1.47(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

Facts:

The application was filed without an oath or declaration.

A Notice of Missing Parts was mailed August 17, 2007. The Notice required the submission of various fees and an executed oath or declaration within an extendable two-month period of time.

A reply was filed October 16, 2007. The reply did not include an oath or declaration. Therefore, a Notice of Incomplete Reply was mailed October 30, 2007. The Notice stated, "The oath or declaration is missing."

A petition under 37 CFR 1.47 and a request for a four-month extension of time were filed February 8, 2008. The petition requested the Office "accept the previously filed declaration without the signature of inventor Michael King." However, Office records failed to indicate a declaration has been filed.

Since an oath or declaration had not been submitted in response to the Notice of Missing Parts, the application became abandoned as of February 18, 2008.

A decision mailed June 18, 2008, dismissed the petition under 37 CFR 1.47 and informed petitioner the application was abandoned.

The petition under 37 CFR 1.47(a):

Papers filed October 10, 2008, include a declaration signed by all the inventors but King. Papers filed October 1, 2008, include a declaration signed by inventor King. In view of the joinder of King, further consideration under 37 CFR 1.47(a) is unnecessary. Therefore, the petition is dismissed as moot.

The petition under 37 CFR 1.137(b):

Petitioner 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 the required petition fee of $1,540. Petitioner has submitted a reply to the Notice to File Missing Parts in the form of declarations signed by all the inventors. 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.

The petition under 37 CFR 1.182:

The petition under 37 CFR 1.182 requesting expedited consideration of the petition is granted. and the petition has received expedited consideration.

Technology Center Art Unit 2856 will be informed of the instant decision and the application will be examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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AT&T Legal Department - JW
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Mail Date: 05/06/2010

| | | |
|---|---|---|
| **Applicant** | : Benjamin A. Knott | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653549 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/834,520 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/23/2010

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| **Applicant** | : Anthony DiCarlo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654677 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/834,583 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

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| In re Application of: | : | |
| Brantley et al. | : | |
| Application No. 11/834587 | : | DECISION DISMISSING |
| Filing or 371(c) Date: 08/06/2007 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| ENGINE BLOCK FOR USE IN A FUEL | : | |
| CELL SYSTEM | : | |

This is in response to a Petition for Application by Other than all Inventors 37 C.F.R. § 1.47(a) and MPEP § 409.03(d), filed January 25, 2008, and supplemented February 28, 2008 with executed oath/declarations of the previously nonsigning inventors.

In view of the joinder of the inventors, consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot[1]. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being referred to the Office Patent Application Processing for continued processing in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] The petition has been entered and docketed and may not be withdrawn.

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KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE, CA 95110

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Gordon E. ESPESETH | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7568444 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/834,588 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**MCDERMOTT WILL & EMERY**
**4370 LA JOLLA VILLAGE DRIVE**
**SUITE 700**
**SAN DIEGO CA 92122**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Xing-Xian Yu et al | : | |
| Application No. 11/834,640 | : | DECISION ON PETITION |
| Filed: August 6, 2007 | : | |
| Attorney Docket No. BIOL0088US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; declaration and sequence listing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed August 17, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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HUSCH BLACKWELL SANDERS LLP
4801 Main Street
Suite 1000
KANSAS CITY MO 64112

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|---|---|---|
| In re Application of | : | |
| Gary F. Bart | : | |
| Application Number: 11/834682 | : | DECISION ON PETITION |
| Filing Date: 08/06/2007 | : | |
| Attorney Docket Number: | : | |
| 56485.10031 | : | |

This is a decision in reference to the "PETITION UNDER 37 C.F.R. § 1.181 TO REVIEW FILING DATE," filed on November 10, 2008, which is treated as a petition requesting that the above-identified application, as filed, be accorded a filing date of August 6, 2007, instead of the presently accorded filing date of November 20, 2007.

The petition is **GRANTED**.

On August 6, 2007, the application was filed. The application papers as filed included two (2) sheets of drawings containing Figures 1 and 2, respectively, as well as a sheet containing two (2) unlabeled drawing Figures.

On August 20, 2007, the Office of Patent Application Processing (OPAP) mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of August 6, 2007, but that, *inter alia*, Figures 3 and 4 described in the specification appeared to have been omitted from the application.

In response, on November 20, 2007, petitioners filed three (3) sheets of replacement drawings, including one (1) sheet containing Figures 3 and 4. Accordingly, on November 28, 2007, a Notice of Incomplete Reply was mailed, stating that the application had been accorded a filing date of November 20, 2007, but that Figures 3 and 4 appeared to be omitted from the application as filed, and that petitioner had not filed (1) a petition for date of deposit; (2) petition for later filing date, or (3) acceptance of the application as deposited.

In response, on January 28, 2008, applicants filed a response stating that they wished to accept the application as deposited in the USPTO on August 6, 2007, accompanied by a four (4) month extension of time.

The subject petition was filed on November 10, 2008. Petitioners state that Figures 3 and 4 were present on filing, but were not properly labeled.

The Notice to File Missing Parts mailed on August 20, 2007, states, in pertinent part:

> III. **Acceptance of application as deposited:** Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within TWO MONTHS of the date of this Notice. THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b). The application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.
> (A) If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):
> …
> 2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d)to renumber the drawing figures consecutively (if necessary), 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 a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125.

It is obvious from the petition that no drawing was actually missing on August 6, 2007. Rather, the drawing of Figures 3 and 4 were not properly labeled as a result of the applicant's filing

error. However, the "Notices" mailed on August 20, 2007 and November 28, 2007, was correct in stating that Figures 3 and 4 described in the specification appeared to have been omitted. Therefore, the "Notices" were properly mailed and will not be withdrawn.

As the present petition was not necessitated by any error on the part of the Office, the petition fee of $400.00 is due and will not be refunded.

The application will be reprocessed with a filing date of August 6, 2007, using only the application papers filed on that date.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **August 6, 2007**, using only the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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**LaPointe Law Group, PL**
**P.O. Box 1294**
**Tarpon Springs, FL 34688-1294**

| | | |
|---|---|---|
| **In re Application of** | : | **DECISION ON REQUEST TO** |
| **Takeshi Takahara *et. al.*** | : | **PARTICIPATE IN PATENT** |
| **Application No. 11834720** | : | **PROSECUTION HIGHWAY** |
| **Filed: August 07, 2007** | : | **PILOT PROGRAM AND PETITION** |
| **Attorney Docket No. 1582.40** | : | **TO MAKE SPECIAL UNDER** |
| **For: ORANGE-EMITTING PHOSPHOR** | : | **37 CFR 1.102(d)** |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 07, 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, 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 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 currently in pre-examination. The application will be forwarded to the examiner for action on the merits commensurate with this decision once the pre-examination processing is completed.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : May 26, 2010

**TO SPE OF** : ART UNIT 1796
**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11834741
Patent No.: 7655738

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 – 9D40-C**
**Palm Location 7580**

**Certificates of Correction Branch**

**703-756-1573**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| ☒ **Approved** | **All** changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

**SPE** 1796 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

MAY 02 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

| | | |
|---|---|---|
| In re Application of | : | |
| FUKUDA, TAKASHI, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/834,756 | : | PARTICIPATE IN PATENT |
| Filed: August 7, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. JP920060088US1 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 18, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 Satellite Blvd., 2nd Floor
Duluth GA 30096

COPY MAILED
MAR 15 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Nathaniel C. Herwig et al. | : | |
| Application No. 11/834,773 | : | DECISION ON PETITION |
| Filed: August 7, 2007 | : | |
| Attorney Docket No. **500.0356 (13595)** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 4, 2009

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
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

AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 06/11/2010

| | | |
|---|---|---|
| **Applicant** | : Hung-Chieh Lin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652397 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/834,819 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

**MICHAEL, BEST & FRIEDRICH LLP**
**100 EAST WISCONSIN AVENUE**
**SUITE 3300**
**MILWAUKEE WI 53202**

**MAILED**

FEB 06 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Todd W. Johnson et al | : | |
| Application No. 11/834,820 | : | DECISION GRANTING PETITION |
| Filed: August 7, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 066042-9537-05 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on December 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APR 01 2010

OFFICE OF PETITIONS

RAYMOND HO
MORRIS, MANNING & MARTIN, LLP
1333 H STREET, N.W.
SUITE 820
WASHINGTON, DC 20005

| | | |
|---|---|---|
| In re Application of | : | |
| Cheng-Cheng Liu, et al. | : | |
| Application No. 11/834,863 | : | ON PETITION |
| Filed: August 7, 2007 | : | |
| Attorney Docket No. 22264-71640 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 23, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 24, 2009. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2826 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMPACC LAW GROUP
3500 188TH STREET S.W., SUITE 103
LYNNWOOD, WA 98037

**MAILED**

APR 16 2010

OFFICE OF PETITIONS

In re Application of :
Soon-Young Eom, et al. :
Application No. 11/834,876 :
Filed: August 7, 2007 :
Attorney Docket No. 110SS-003200US :

ON PETITION

This is a decision in response to the petition, filed January 12, 2010, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 1, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 1, 2009. A Notice of Abandonment was mailed on December 18, 2009.

Petitioners argue that the abandonment should be withdrawn since the period for paying the issue and publication fees was reset to January 15, 2010 due to the Supplemental Notice of Allowability mailed October 15, 2009.

Petitioners' argument is not well taken. The period within which the issue fee must be paid was set in the Notice of Allowance mailed September 1, 2009 and, because this period is prescribed by statute, it cannot be extended. See 35 U.S.C. 151. The Supplemental Notice of Allowability did not operate to reset the period for paying the issue fee. In fact, the Supplemental Notice of Allowability mailed October 15, 2009 does not mention the issue/publication fees, but rather clearly states:

"Applicant has THREE MONTHS FROM THE 'MAILING DATE' of this communication *to file a reply complying with the requirements noted below.* Failure to timely comply will result in ABANDONMENT of this application…

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted…" Emphasis added.

Since the issue and publication fees were not paid within the period set by statute, the application was properly held abandoned. Consequently, the request to withdraw the holding of abandonment cannot be granted.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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 $770 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By Internet: | EFS-Web[1] |

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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**AMPACC LAW GROUP**
**3500 188TH STREET S.W., SUITE 103**
**LYNNWOOD WA 98037**

MAILED

JUN 17 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Eom et al. | : | |
| Application No. 11/834,876 | : | DECISION ON PETITION |
| Filed: August 7, 2007 | : | |
| Attorney Docket No. 110SS-003200US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 1, 2009, as required by the Notice of Allowance and Fee(s) Due mailed September 1, 2009. Accordingly, the date of abandonment of this application is December 2, 2009. A Notice of Abandonment was mailed December 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00 (previously submitted January 12, 2010); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

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. |
|---|---|---|---|---|
| 11/834,913 | 08/07/2007 | Wang-byung CHAE | 104-1326 | 1500 |

7590 03/12/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

| EXAMINER |
|---|
| JONES, MELVIN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3744 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/12/2009 | 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: 03/13/2009 NFARMER
08/07/2007 INTEFSW 00007978 502827 11834913
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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www.uspto.gov

Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Norio Ookubo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588605 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/835,036 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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glm

8-31-07

In re application of
Anson Parker et al
Serial No. 11/835,051
Filed: August 7, 2007
For: COMPOSITIONS AND METHODS RELATING TO EXTENSIBLE TRANSGENIC VECTOR ASSEMBLER, PESTILENCE RIDDER, PLUS CANNABINOID PRODUCER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on August 7, 2007 to make the above-identified application special.

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.

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.

DECISION

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete and in condition for examination at the time of filing. Note the Notice to File Missing Parts of Nonprovisional Application mailed on August 9, 2007, which indicated that the oath or declaration was missing and that a substitute specification was required, along with a surcharge.

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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Mr. Anson Parker
Apt 15
101 Carrollton Ter.
Charlottesville VA 22903

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

DATE : 7/16/09

TO SPE OF : ART UNIT 2819 Barnie Rexford (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/835066 Patent No.: 7528746

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

**Certificates of Correction Branch**
**703-308-9390 ext.** _____

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

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_____ **SPE** _____ **Art Unit**

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

| | | |
|---|---|---|
| In re Application of | : | |
| MURAKAMI, HIDEKI | : | DECISION ON REQUEST TO |
| Application No. 11/835,086 | : | PARTICIPATE IN PATENT |
| Filed: August 07, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 313252US26 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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MEDTRONIC
ATTN: NOREEN JOHNSON – IP LEGAL DEPARTMENT
2600 SOFAMOR DANEK DRIVE
MEMPHIS, TN 38132

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of
James J. Bindseil, et al.
Application No. 11/835,091
Filed: August 7, 2007
Attorney Docket No. PC89209

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 2, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center

This application is being referred to Technology Center AU 3738 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER A. BROWN
111 MONUMENT CIRCLE
SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OFFICE OF PETITIONS

Applicant: Redoute et al.
Appl. No.: 11/835,187
Filing Date: August 7, 2007
Title: DRIVER CIRCUIT WITH EMI IMMUNITY
Attorney Docket No.: 14993.62
Pub. No.: 2008-0042696 A1
Pub. Date: February 21, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 21, 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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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/835,193 | 08/07/2007 | Yiling XU | 678-3287 | 1023 |

| EXAMINER |
|---|
| BOST, DWAYNE D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/12/2010 | PAPER |

7590 01/12/2010
THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

## 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 Jarmey

Patent Publication Branch
Office of Data Management

[illegible]

Submitted date: 01/12/2010 [illegible]
[illegible]/2007 INTERSW [illegible] 11835193
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**8055 East Tufts Avenue**
**Suite 450**
**Denver, CO 80237**

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| In re Application of | : | |
| Christopher Michael Salafia, et al. | : | |
| Application No. 11/835,208 | : | DECISION ON PETITION |
| Filed: August 7, 2007 | : | TO WITHDRAW |
| Attorney Docket No. PPI-006-US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Marsh, Fischmann & Breyfogle LLP has been revoked by the assignee of the patent application on November 26, 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 Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MAIER & MAIER, PLLC**
**1000 Duke Street**
**Alexandria, VA 22314**

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**OFFICE OF PETITIONS**

In re Application of :
ANAND et al. :
Application No. 11/835,237 :
Filed: 08/07/2007 :
Attorney Docket No. NBLE:056US :

ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.53(e)(2) TO ACCORD FILING DATE," filed February 12, 2008, which is being treated as a petition to withdrawal the Notice to Incomplete Reply mailed January 23, 2008.

The petition is **DISMISSED**. Any request for reconsideration must be file within TWO MONTHS of the mail date of this decision. No extensions of the period are permitted. See 37 CFR 1.181(f).

Petitioners filed the above-identified application on August 7, 2007. On September 12, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted, which gave petitioners a two-month extendable period within which to file an oath or declaration and pay the statutory basic filing fee, additional claim fees and a surcharge to avoid abandonment. Additionally, the Notice to File Missing Parts of Nonprovisional Application indicated that Figures 2B-2D appeared to be omitted.

On January 11, 2008, petitioners submitted a request for an extension of time for response within the second month, a preliminary amendment captioned "Specification Amendment," an executed declaration, a power of attorney, a Statement Under 37 CFR 3.73(b) with a copy of the assignment, and the requisite fees.

On January 23, 2008, the Office mailed a Notice of Incomplete Reply (Nonprovisional) – Filing Date Granted, stating that the USPTO had received petitioners' reply on January 11, 2008, to the Notice to File Missing Parts of Nonprovisional Application mailed September 12, 2007, and that it had been entered into the application. The Notice indicated that the reply did not include Figures 2B-2D, as well as advised petitioners again of their option to petition for a date of deposit, for a later filing date, or accept the application as deposited. The period of reply remained as set forth in the Notice to File Missing Parts of Nonprovisional Application, including extensions of time under 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)). Contrary to petitioners'

assertion in the petition, the Notice of Incomplete Reply did NOT indicate that no filing date was accorded to the application due to a failure to supply drawings 2B-2D and the required Petition. In fact, the filing date of the application remains August 7, 2007.

In the present petition, petitioners assert:

> ... The drawings filed on August 7, 2007 are complete, and Figure 2 is correctly identified. However, it was necessary for the Applicants to file a Preliminary Amendment to correct a typographical error which incorrectly identified Figure 2 as Fig. 2A-2D in the specification. A Preliminary Amendment was filed on January 11, 2008 in response to the Notice to File Missing Parts. Subsequently, a Notice of Incomplete Reply (Nonprovisional) filed under 37 C.F.R. § 1.53(b) was mailed on January 23, 2008, indicating that a filing date was not accorded to the referenced Nonprovisional Application due to a failure to supply drawings 2B-2D and the required Petition.
>
> The Preliminary Amendment filed on January 11, 2008 corrects the typographical error in the specification and the filing of the Petition herewith satisfies all requirements for response. The submission of the Preliminary Amendment renders it unnecessary to supply additional drawings and its filing does not constitute new matter. Accordingly, Applicants are entitled to the August 7, 2007 filing date.
>
> Withdrawal of the Notice of Incomplete Reply (Nonprovisional) is requested in view of the foregoing. ...
>
> In view of the above, Applicants have shown compliance with the requirements of 37 C.F.R. § 1.53(b) in the instant application and respectfully request the office to accord a filing date of August 7, 2007, and to refund the amount of the petition fee of $400.00[.]

The Notice to File Missing Parts of Nonprovisional Application and the Notice of Incomplete Reply notified petitioners of the required patent procedure for accepting the application as deposited on August 7, 2007, without Figures 2B-2D. Specifically, the Notice to File Missing Parts of Nonprovisional Application stated:

> III. **Acceptance of application as deposited:** Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within TWO MONTHS of the date of this Notice. THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b). The application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.
>
> (A) If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required

> to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):
>
> ***
>
> 2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d) to renumber the drawing figures consecutively (if necessary), 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 a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125[.]

The record reveals that petitioners submitted an improper amendment on January 11, 2008, and did not file a complete and timely reply to the Notice to File Missing Parts of Nonprovisional Application. Accordingly, the Office correctly mailed the Notice of Incomplete Reply. Furthermore, as stated in the Notice of Incomplete Reply, petitioners were required to file a complete reply to prevent abandonment of the application within the period of reply as set forth in the Notice to File Missing Parts of Nonprovisional Application, including extensions of time under 37 CFR 1.136(a) accompanied by the appropriate fee (i.e. an extendable two month period from the mail date of the Notice to File Missing Parts of Nonprovisional Application).

The Office notes that the filing of the present petition did not toll the period for replying to the outstanding Notice to File Missing Parts of Nonprovisional Application. Moreover, abandonment takes place by operation of law for failure to reply to an Office action or Notice within the period for response, including any available extensions of time. As petitioners did not file a complete and timely reply in the form of a substitute specification and a statement that the substitute specification includes no new matter in compliance with 37 CFR 1.121(b)(3) and 1.125 in response to the Notice to File Missing Parts of Nonprovisional Application of September 12, 2007, the application became abandoned on November 13, 2007.

Pursuant to 37 CFR 1.135 states:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

The Office reminds petitioners that it was their responsibility to timely submit a response to the Notice to File Missing Parts of Nonprovisional Application to save the application from abandonment.

The Office has reviewed the Notice to File Missing Parts of Nonprovisional Application and the Notice of Incomplete Reply and determined that the Notices were properly mailed. As petitioners did not file a complete and timely reply to the Notice to File Missing Parts of Nonprovisional Application in accordance with 37 CFR 1.135, the present application is currently abandoned. Petitioner may wish to file a petition under 37 CFR 1.137(b) to revive the application.

This application is being referred to the Office of Patent Application Processing for mailing of a Notice of Abandonment for failure to file a proper and timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on September 12, 2007.

Telephone 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

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| In re Application of | : | |
| ANAND et al. | : | |
| Application No. 11/835,237 | : | ON PETITION |
| Filed: August 7, 2007 | : | |
| Attorney Docket No. NBLE:056US | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION DISMISSING PETITION UNDER 37 C.F.R. 1.53(e)(2) TO ACCORD FILING DATE," filed July 2, 2008.

Petitioners filed the above-identified application on August 7, 2007. On September 12, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted, which gave petitioners a two-month extendable period within which to file an oath or declaration and pay the statutory basic filing fee, additional claim fees and a surcharge to avoid abandonment. Additionally, the Notice to File Missing Parts of Nonprovisional Application indicated that Figures 2B-2D appeared to be omitted.

On January 11, 2008, petitioners submitted a request for an extension of time for response within the second month, a preliminary amendment captioned "Specification Amendment," an executed declaration, a power of attorney, a Statement Under 37 CFR 3.73(b) with a copy of the assignment, and the requisite fees.

On January 23, 2008, the Office mailed a Notice of Incomplete Reply (Nonprovisional) – Filing Date Granted, stating that the USPTO had received petitioners' reply on January 11, 2008, to the Notice to File Missing Parts of Nonprovisional Application mailed September 12, 2007, and that it had been entered into the application. The Notice indicated that the reply did not include Figures 2B-2D, as well as advised petitioners again of their option to petition for a date of deposit, for a later filing date, or accept the application as deposited. The period of reply remained as set forth in the Notice to File Missing Parts of Nonprovisional Application, including extensions of time under 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)).

On February 12, 2008, petitioners a "PETITION UNDER 37 C.F.R. 1.53(e)(2) TO ACCORD FILING DATE," which was being treated as a petition to withdrawal the Notice of Incomplete Reply mailed January 23, 2008. The petition was dismissed by the decision of May 2, 2008. On July 2, 2008, petitioners filed the present renewed petition.

Presently, petitioners dispute that the application is currently abandoned and disagree with the Office's reliance on Section III of the Notice to File Missing Parts of Nonprovisional Application, which states in pertinent part:

> III. **Acceptance of application as deposited:** Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within TWO MONTHS of the date of this Notice. THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b). The application will **maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit**.
>
> (A) If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):
>
> ***
>
> 2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d) to renumber the drawing figures consecutively (if necessary), 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 a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125[.]

(Emphasis added).

Specifically, petitioners argue:

> As can be seen, every instance referred to involves the situation where an item has been omitted from the application and Applicants do not contest this fact. [Section III] is therefore not applicable here because (1) Applicants are **specifically** ***contesting the allegation that any omission occurred in the current application***, and (2) ***nothing was in fact missing from the application as filed***. Therefore, ***<u>the substitute specification requirement of Section III does not apply to this case</u>***.

*Petition dated 07/02/08, p. 3.*

Additionally, petitioners aver that Section I of the Notice to File Missing Parts of Nonprovisional Application applies in this instance. Section I reads:

> I. **Petition for date of deposit**: Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f)* with evidence of such deposit must be filed within TWO MONTHS of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO. THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).

Petitioners assert:

> [I]t is clear that Section I applies rather than the aforementioned Section III because the allegedly omitted Figure(s) 2B-2D in fact *do not exist*, and therefore were not omitted, and Applicants' Petition contested the fact that any omission was made. Specifically, Applicants' Petition explained that "**The *drawings filed on August 7, 2007 are complete, and Figure 2 is correctly identified***" but a typographical error was contained in the original figure legend that incorrectly referred to Figure 2 as "Fig. 2A-2D." (emphasis added). Therefore, only Section I of the Notice to File Missing Parts entitled "Petition for date of deposit" applies to the current situation. While Applicants also filed a Preliminary Amendment to correct the aforementioned typographical error by way of specification amendment, this is completely irrelevant to the applicability of Section III because it is not an acknowledgement that anything was missing from the specification as filed and the Petition traverses the assertion that any omission was made. Thus, Applicants needed only to comply with Section I of the Notice, which has been done as explained below.

*Petition dated 07/02/08, pp. 4-5.*

The Office has carefully reconsidered petitioners' arguments; however, the Office finds they are without merit. Petitioners' reliance on Section I is misplaced. The specification on filing described Figures 2A-2D. As no drawings of Figures 2B-2D were submitted with the application, it appeared that those Figures were omitted. Therefore, the Office correctly mailed the Notice to File Missing Parts of Nonprovisional Application. As petitioners explain, they are not contesting the fact that Figures 2B-2D were not present on filing. Therefore, Section III provides petitioners the opportunity to accept the application as filed without Figures 2B-2D.

Section I does not apply to the facts presented. Petitioners are not contending that "the above-noted omitted item(s) [Figures 2B-2D] was in fact deposited in the U.S. Patent and Trademark Office (USPTO)" nor are they submitting "evidence of such deposit." See Section I of Notice. On the contrary, petitioners argue that Figures 2B-2D never existed. Petitioners state that Figure 2 (not Figures 2B-2D) was in fact deposited with the application papers. As petitioners are not requesting that the application be accorded a filing date with Figures 2B-2D as part of the original disclosure, petitioners are in fact requesting that the application be accepted as deposited on August 7, 2007

pursuant to Section III. Therefore, petitioners were required to file a proper and timely reply in the form of a substitute specification and a statement that the substitute specification includes no new matter in compliance with 37 CFR 1.121(b)(3) and 1.125 in response to the Notice to File Missing Parts of Nonprovisional Application of September 12, 2007, to avoid abandonment of the application. As no such reply was received, the application became abandoned on November 13, 2007.

Pursuant to 37 CFR 1.135 states:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

The Office reminds petitioners that it was their responsibility to timely submit a proper and timely response to the Notice to File Missing Parts of Nonprovisional Application to save the application from abandonment. The Office has reviewed the Notice to File Missing Parts of Nonprovisional Application and the Notice of Incomplete Reply and determined that the Notices were properly mailed. As petitioners did not file a complete and timely reply to the Notice to File Missing Parts of Nonprovisional Application in accordance with 37 CFR 1.135, the present application remains abandoned. Petitioners may wish to file a petition under 37 CFR 1.137(b) to revive the application.

The petition is **DISMISSED**. Any request for reconsideration must be file within TWO MONTHS of the mail date of this decision. No extensions of the period are permitted. See 37 CFR 1.181(f).

This application is being referred to the Office of Patent Application Processing for mailing of a Notice of Abandonment for failure to file a proper and timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on September 12, 2007.

Telephone 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

Conferee: Eugenia Jones, Senior Legal Advisor, Office of Patent Legal Administration

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**OFFICE OF PETITIONS**

In re Application of
ANAND et al.
Application No. 11/835,237
Filed: 08/07/2007
Attorney Docket No. NBLE:056US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

On September 12, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted, which gave petitioners a two-month extendable period within which to file an oath or declaration and pay the statutory basic filing fee, additional claim fees and a surcharge to avoid abandonment. Additionally, the Notice to File Missing Parts of Nonprovisional Application indicated that Figures 2B-2D appeared to be omitted.

On January 11, 2008, petitioners submitted a request for an extension of time for response within the second month, a preliminary amendment captioned "Specification Amendment," an executed declaration, a power of attorney, a Statement Under 37 CFR 3.73(b) with a copy of the assignment, and the requisite fees.

On January 23, 2008, the Office mailed a Notice of Incomplete Reply (Nonprovisional) – Filing Date Granted, stating that the USPTO had received petitioners' reply on January 11, 2008, to the Notice to File Missing Parts of Nonprovisional Application mailed September 12, 2007, and that it had been entered into the application. The Notice indicated that the reply did not include Figures 2B-2D, as well as advised petitioners again of their option to petition for a date of deposit, for a later filing date, or accept the application as deposited. The period of reply remained as set forth in the Notice to File Missing Parts of Nonprovisional Application, including extensions of time under 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)). As petitioners did not file a complete and timely reply in the form of a substitute specification and a statement that the

substitute specification includes no new matter in compliance with 37 CFR 1.121(b)(3) and 1.125 in response to the Notice to File Missing Parts of Nonprovisional Application of September 12, 2007, the application became abandoned. On December 2, 2008, the Office mailed a Notice of Abandonment.

On petition, petitioners have met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioners submitted the required reply, paid the petition fee, and made a proper statement of unintentional delay.

This matter 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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| In re Application of | : | |
| Denney et al. | : | DECISION ON PETITION TO |
| Application Number: 11/835251 | : | WITHDRAW HOLDING OF |
| Filing Date: 08/07/2007 | : | ABANDONMENT |
| Attorney Docket Number: | : | |
| 1875.0720003 | : | |

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181(a)," filed on January 21, 2010.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on December 21, 2009, stating that the application was abandoned for failure to timely file a reply to the Office letter mailed on June 12, 2009.

A review of the record reveals that on June 12, 2009, a non-final Office action was mailed, setting a three (3)-month shortened statutory period for reply.

On December 14, 2009, an amendment and a three (3)-month extension of time under 37 CFR 1.136(a) were filed.

As December 12, 2009, fell on a Saturday, the reply filed on Monday, March 14, 2009, was timely filed with the three (3)-month extension of time. 37 CFR 1.7(a). Accordingly, the application did not become abandoned for failure to timely respond to the non-final Office action mailed on June 12, 2009.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2471 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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| In re Application of | : | |
| De Obaldia et al. | : | |
| Application Number: 11/835274 | : | ON PETITION |
| Filing Date: 08/07/2007 | : | |
| Attorney Docket Number: TI-35770A | : | |

This is a decision in response to the petition under 37 CFR 1.137(b)[1] filed on March 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 8, 2009, for failure to timely file a response to the non-final Office action mailed on August 7, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the amendment filed on March 5, 2010 is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application will be referred to Technology Center Art Unit 2112 for further processing.

Telephone inquiries concerning this matter may 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
www.uspto.gov
DIW Jan-08

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

**COPY MAILED**

JAN 17 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kawada et al. | : | |
| Application Number: 11/835282 | : | ON PETITION |
| Filing Date: 08/07/2007 | : | |
| Attorney Docket Number: | : | |
| 89324.0012 | : | |

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO SUSPEND THE REQUIREMENTS FOR FOREIGN PRIORITY CLAIM UNDER 37 CFR 1.55," filed on December 7, 2007, which is treated as a petition under 37 CFR 1.183 requesting waiver of the rules in that the Office accept a claim for foreign priority benefit under 35 USC 119 of foreign Japanese application No. JP 2006-202668, filed on July 26, 2006.

The petition is **dismissed**.

Petitioners concede that the subject application was filed more than 12 months after the date on which the prior-filed foreign application was filed, as required by 35 USC 119, but request that the Office accept the priority claim as proper because of "circumstances beyond the control" of applicants.

Specifically, petitioners aver that the filing of the subject application was delayed because the envelope containing the application papers sent by petitioner's Japanese counsel, Azusa Patent Office (hereinafter "Azusa") to petitioner's registered patent practitioners in the United States (hereinafter "Hogan & Hartson") was misaddressed to Hogan & Hartson's old address, and because of delays on the part of petitioner's international courier, DHL, in delivering the application to Hogan & Hartson's current address.

At the outset, the petition must be dismissed because, 37 CFR 1.183, by its terms, cannot be employed contrary to any provision of the patent statute.

35 USC 119(a) states:

> An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, **if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed**; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.
>
> (emphasis added)

The controlling provision of the applicable statute requires that the U.S. application must be filed within twelve (12) months from the earliest date on which the foreign application was filed.

Here, the U.S. application was clearly **not** filed within twelve (12) months from the filing date of the prior-filed foreign application. The granting of the relief petitioners request defeats the underlying purpose of § 119(a), and USPTO acceptance of the priority claim to a foreign application filed more than twelve (12) months prior to the filing of the nonprovisional application would improperly evade the stringent requirements of the statute. Since this is a requirement of the applicable law, the USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

Thus, since the subject application was not filed within twelve (12) months of July 26, 2006, the filing date of the prior filed foreign application, the USPTO is without authority to acknowledge applicant's claim for foreign priority under 35 USC 119.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.181(f).

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JUL 21 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kawada et al. | : | |
| Application Number: 11/835282 | : | ON PETITION |
| Filing Date: 08/07/2007 | : | |
| Attorney Docket Number: | : | |
| 89324.0012 | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION," filed on March 17, 2008, which is treated as a renewed petition under 37 CFR 1.183 requesting waiver of the rules in that the Office accept a claim for foreign priority benefit under 35 USC 119 of foreign Japanese application No. JP 2006-202668, filed on July 26, 2006.

The petition is again **DISMISSED**.

BACKGROUND

1. On August 7, 2007, the subject application was filed.

2. On December 7, 2007, a petition under 37 CFR 1.183 was filed, requesting waiver of 37 CFR 1.55 and 35 U.S.C. § 119 such that a claim of foreign priority to Japanese application JP 2006-202668, filed on July 26, 2006, may be accepted in the subject application.

3. On January 17, 2008, the petition was dismissed.

4. On March 17, 2008, the subject request for reconsideration was filed.

STATUTE AND REGULATION

35 U.S.C. § 119(a) states:

> An application for patent for an invention filed in this country by any person who has, or whose legal

> representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, **if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed;** but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.
>
> (emphasis added)

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

## OPINION

Petitioners concede that the foreign application to which petitioners wish to claim priority, Japanese Application No. 2006-202668, was filed on July 26, 2006, was filed more than one (1) year prior to the filing of the subject application, which was filed on August 7, 2007, but seek, nonetheless, to have the claim of priority accepted.

Specifically, petitioners again aver that the filing of the subject application was delayed because the envelope containing the application papers sent by petitioner's Japanese counsel, Azusa Patent Office (hereinafter "Azusa") to petitioners'

registered patent practitioners in the United States (hereinafter "Hogan & Hartson") was misaddressed to Hogan & Hartson's old address, and because of delays on the part of petitioner's international courier, DHL, in delivering the application to Hogan & Hartson's current address. To this end, petitioners assert that the envelope was shipped from Azusa on June 15, 2007, but did not arrive at Hogan & Hartson until August 6, 2007.

At the outset, as stated in the previous decision, 37 CFR 1.183, by its terms, cannot be employed contrary to any provision of the patent statute.

The controlling provision of the applicable statute **requires** that the U.S. application must be filed within twelve (12) months from the earliest date on which the foreign application was filed.

Here, the U.S. application was clearly **not** filed within twelve (12) months from the filing date of the prior-filed foreign application. The granting of the relief petitioners request defeats the underlying purpose of § 119(a), and USPTO acceptance of the priority claim to a foreign application filed more than twelve (12) months prior to the filing of the nonprovisional application would improperly evade the stringent requirements of the statute. Since this is a requirement of the applicable law, the USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A.F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

Thus, since the subject application was not filed within twelve (12) months of July 26, 2006, the filing date of the prior filed foreign application, the USPTO is without authority to acknowledge applicant's claim for foreign priority under 35 USC 119.

Furthermore, assuming, *arguendo*, the Office did have authority to grant the requested waiver, petitioners have not showing that extraordinary circumstances exist where justice requires waiver of the rules.[1] As such, petitioners must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[1] 37 CFR 1.183.

Petitioner has not established that either condition exists in this case.

Here, the cause of the delay in filing the subject application, which led to the noncompliance with 35 U.S.C. § 119(a), was caused by (1) the failure of petitioners' foreign counsel, Azusa, to use the current address for domestic counsel, Hogan & Hartson, in mailing the application papers for filing at the USPTO and (2) delays on the part of petitioner's courier, DHL, in delivering the papers to the correct address for Hogan and Hartson.

Neither the use of an incorrect address in mailing papers, nor a delay in delivery of misaddressed papers to the correct address, are extraordinary circumstances which justify waiver of the rules. Rather, the showing is a lack of reasonable due care and diligence on the part of Azusa in using the wrong address and/or DHL in failing to timely deliver the envelope to the correct address. In this regard, it is further noted that Azusa could have tracked delivery of the envelope and taken further steps to ensure timely delivery of a copy of the application papers at Hogan & Hartson. Likewise, any delay caused by DHL in failing to timely deliver the envelope to Hogan & Hartson's current address would not constitute an extraordinary circumstance, but rather a lack of diligence.

As such, the showing of record is that the delay was due to an avoidable mistake rather than extraordinary circumstances. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *U.S. v. Lockheed Petroleum Services*, 709 F.2d 1472, 1475 (Fed. Cir. 1993).

Lastly, the showing of record is that petitioners waited until June 15, 2007, less than two months before the end of the period, in which foreign priority could be claimed before sending the subject application from petitioner's foreign counsel to domestic counsel for filing in the USPTO.

In this regard, those who file at the end of a statutory bar year (35 U.S.C. 102(b)) or a priority year (35 U.S.C. 119) or who delay filing a continuing application until near the end of the period for establishing continuity (35 U.S.C. 120 or 121), do not leave any opportunity to overcome any error which might occur in filing the application. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. *See*

*Ex parte Sassin*, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and *compare Ziegler v. Baxter v. Natta*, 159 U.S.P.Q. 378, 379 (Comm'r Pat. 1968) *and Williams v. The Five Platters, Inc.*, 510 F.2d 963, 184 USPQ 744 (CCPA 1975).

In summary, while an applicant may delay filing papers until the end of the time period for a response, the applicant assumes the risk attendant to such delay. *Ex parte Warren,* 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

## CONCLUSION

The decision of January 17, 2008, has been reconsidered, but for the reasons given in the previous decision and noted above, the Office is without legal authority to provide the requested relief. Simply put, since the subject application was not filed within twelve (12) months of July 26, 2006, the Office is, by statute, precluded from acknowledging applicant's claim for priority under 35 U.S.C. § 119.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. This period may not be extended.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The application is referred to Technology Center 2861 for examination in due course.

[2] 37 CFR 1.181(f).

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

**Darby & Darby P.C.**
**P.O. Box 770**
**Church Street Station**
**New York, NY 10008-0770**

MAILED

MAR 30 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Simon Alan Hughes | : | |
| Application No. 11/835,333 | : | DECISION ON PETITION |
| Filed: August 7, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 20410/0207461-US0 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John W. Branch on behalf of all attorneys/agents associated with customer number 07278. All attorneys/agents associated with customer number 07278 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted. Compliance with 37 CFR 3.73(b) has not been met.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Simon Alan Hughes
17 Dunsany Park
Haverfordwest
Pembrokeshire, United Kingdom
SA61 1UD

cc: Saint-Gobain Performance Plastics
Rencoi Limited
Unit 16 Concorde Road
Bristol, United Kingdom BS34 5TB

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/835,333 | 08/07/2007 | Simon Alan Hughes | 20410/0207461-US0 |

**CONFIRMATION NO. 1268**

**POWER OF ATTORNEY NOTICE**

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

*OC000000035228595*

Date Mailed: 03/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**HOLLIS-EDEN PHARMACEUTICALS, INC.**
**4435 EASTGATE MALL, SUITE 400**
**SAN DIEGO CA 92121**

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SEP 04 2007

OFFICE OF PETITIONS

In re Application of :
**LARDY**, Henry A. :
Application No. 11/835,334 :
Filed: August 7, 2007 :
Attorney Docket No. **208.3C** :
:

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed August 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement of inventor Henry A. Lardy, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

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. |
|---|---|---|---|---|
| 11/835,343 | 08/07/2007 | Ho Young KWAK | PHO-0082 | 1282 |

7590 04/14/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|
| PATEL, JAYANTI K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2419 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/14/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
08/08/2007 INTEFSW 00003156 061130 11835343
02 FC:1111 500.00 CR

Adjustment date: 04/15/2009 NFARMER
09/24/2007 MNGUYEN 00000013 061130 11835343
01 FC:1202 3550.00 CR
02 FC:1203 360.00 CR



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**2040 MAIN STREET**
**FOURTEENTH FLOOR**
**IRVINE CA 92614**

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APR 2 4 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| **STEGMANN,** Thomas J. | : | |
| Application No. 11/835,350 | : | DECISION ON PETITION |
| Filed: August 07, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **CVBIO.8CP1C1** | : | FROM RECORD |
| | : | |

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, 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 Che Chereskin on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed March 23, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THOMAS J. STEGMANN**
**SPIEGEL STRASSE #10**
**PETERSBERG 36100, GERMANY**

cc: **CARDIOVASCULAR BIO THERAPEUTICS, INC.**
**1635 VILLAGE CENTER CIRCLE, SUITE 250**
**LAS VEGAS, NV 89134**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**HICKMAN PALERMO TRUONG & BECKER LLP/YAHOO! INC.**
**2055 GATEWAY PLACE**
**SUITE 550**
**SAN JOSE CA 95110-1083**

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JUN 23 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **JOSHI,** Ashutosh et al. | : | |
| Application No. 11/835,365 | : | DECISION ON PETITION |
| Filed: June 15, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **ELG-P-7633-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 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 request to withdraw less than all attorneys appointed by customer number 73006 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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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**SUITE 400**
**SAN DIEGO CA 92121**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **JAMES M. FRINCKE** | : | |
| Application No. 11/835,367 | : | DECISION ON PETITION |
| Filed: August 07, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **208.3C2** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 copy of Henry Lardy driver's license 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.

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.

The application is being forwarded to the Technology Center Art Unit 1617 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**HOLLIS-EDEN PHARMACEUTICALS, INC.**
**4435 EASTGATE MALL, SUITE 400**
**SAN DIEGO CA 92121**

**COPY MAILED**

SEP 04 2007

**OFFICE OF PETITIONS**

In re Application of

**FRINCKE**, et al.
Application No. 11/835,394
Filed: August 8, 2007
Attorney Docket No. **208.3C3**

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed August 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the affidavit of inventor Henry A. Lardy, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**HOLLIS-EDEN PHARMACEUTICALS, INC.**
**4435 EASTGATE MALL**
**SUITE 400**
**SAN DIEGO CA 92121**

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OCT 09 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **JAMES M. FRINCKE** | : | |
| Application No. 11/835,397 | : | DECISION ON PETITION |
| Filed: August 07, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **208.3C4** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 copy of Henry Lardy driver's license 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 Office of Initial Patent Examination.

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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www.uspto.gov

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/04/2010

| | | |
|---|---|---|
| **Applicant** | : Patrick C. Fenton | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668657 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/835,520 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/08/2007 | : 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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**CROWELL & MORING LLP**
**INTELLECTUAL PROPERTY GROUP**
**P.O. BOX 14300**
**WASHINGTON DC 20044-4300**

MAILED

FEB 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Naomasa Suzuki | : | |
| Application No. 11/835,659 | : | DECISION ON PETITION |
| Filed: August 8, 2007 | : | |
| Attorney Docket No. 100929.59306US | : | |

This is a decision on the request filed February 11, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (1), (2), (3) and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

As an alternative, petitioner may wish to file a declaration of express abandonment of the instant application pursuant to 37 CFR 1.138(d) to obtain a refund of the search and excess claims fees. A copy of form PTO/SB/24B is provided for petitioner's convenience. **Petitioner is advised to file the declaration without delay as the express abandonment can only be processed before an examination has been made of the application. Thereafter, petitioner cannot obtain a refund of such fees except as provided in 37 CFR 1.26.**

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

enclosure: PTO/SB/24B

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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. |
|---|---|---|---|---|
| 11/835,659 | 08/08/2007 | Naomasa SUZUKI | 100929.59306US | 1823 |

7590 03/12/2009
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

| EXAMINER |
|---|
| KIM, ROBERT H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2881 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/12/2009 | 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: 03/13/2009 NFARMER
05/20/2008 HMOHAMM1 00000010 051323 11835659
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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SCHWEGMAN, LUNDBERG & WOESSNER
P.O. BOX 2938
MINNEAPOLIS MN 55402

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Gerhard Tschautscher :
Application No. 11/835,741 : DECISION ON PETITION
Filed: August 8, 2007 :
Attorney Docket No. 2898.006US1 :

This is a decision on the petition under 37 CFR 1.182, filed March 17, 2009, to change the name of inventor " Gary Tschautscher" to – Gerhard Tschautscher --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3768 for examination by the examiner in due course.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/835,741 | 08/08/2007 | 3768 | 425 | 2898.006US1 | 20 | 3 |

**CONFIRMATION NO. 1996**

**REPLACEMENT FILING RECEIPT**

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

*OC000000035390302*

Date Mailed: 04/08/2009

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)**

Gerhard Tschautscher, Carver, MN;
Jayant Parthasarathy, Minnetonka, MN;

**Assignment For Published Patent Application**

NONIN MEDICAL, INC., Plymouth, MN

**Power of Attorney:** The patent practitioners associated with Customer Number 21186

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/22/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/835,741**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

SENSOR AND SYSTEM PROVIDING PHYSIOLOGIC DATA AND BIOMETRIC IDENTIFICATION

**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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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

| | | |
|---|---|---|
| In re Application of | : | |
| Brantley, et al. | : | |
| Application No. 11/835,747 | : | ON PETITION |
| Filed: 8 August, 2007 | : | |
| Attorney Docket No. ULTRP022 | | |

This is a decision on the petition filed on 18 January, 2008, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

## BACKGROUND

The record indicates:

- the instant application was filed on 8 August, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 17 August, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 18 January, 2008, Petitioner Arlene Yeung (Reg. No. 44,000), filed, *inter alia*, the petition, request and fee for extension of time, with an oath/declaration signed by co-inventors Brantley, Newell, Sopchak, Kaye and Thompson on behalf of themselves and non-signing co-inventor Arpad Somogyvari, and averred transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor and

subsequent return thereof unexecuted by the person at that address who indicated the non-signing inventor no longer was resident there; however, Petitioner supplemented that filing on 28 February, 2008, with an averment of joinder by the previously non-signing inventor and a copy of the executed oath/declaration in support of the averment

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are 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]

In view of the joinder of the inventors, further consideration under Rule 1.47(a) 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(a).

## CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) for further processing as necessary before being returned to substantive examination in due course.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] The regulations at 37 C.F.R. §1.2 provide:

**§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 Offi

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UNITED STATES DEPARTMENT OF COMMERCE
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jennifer Brantley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7575611 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/835,747 | : OF WYETH |
| **Filed** | : 08/08/2007 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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APR 2 5 2008

OFFICE OF PETITIONS

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| In re Application of | : | |
| Epstein et al. | : | |
| Application No. 11/835787 | : | DECISION GRANTING |
| Filing or 371(c) Date: 08/08/2007 | : | STATUS UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| THERAPEUTIC DRIVING LAYER FOR | : | |
| A MEDICAL DEVICE | : | |

This is in response to a "Petition Under 37 C.F.R. § 1.47(a)", filed March 17, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

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, Anastasia Panos, 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 Patent Application Processing for continued processing in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MS. ANASTASIA PANOS
HOLY MONESTARY OF ST. JOHN THE BAPTIST
KAREAS, PO BOX 715
27 T.K. 162 33 VYRONAS
ATHENS, GREECE

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APR 25 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Epstein et al. | : | |
| Application No. 11/835787 | : | LETTER |
| Filing or 371(c) Date: 08/08/2007 | : | |
| Title of Invention: | : | |
| THERAPEUTIC DRIVING LAYER FOR | : | |
| A MEDICAL DEVICE | : | |

Dear Ms. Panos:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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

**JACKSON & CO., LLP**
**6114 LA SALLE AVENUE, #507**
**OAKLAND, CA 94611-2802**

COPY MAILED
DEC 22 2008

In re Application of

**STEINBERG**, et al.
Application No. 11/835,790
Filed: August 8, 2007
Attorney Docket No. **FN177**

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 17, 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 Seong-Kun Oh on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor Eran Steinberg at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **ERAN STEINBERG**
**137 GRANVILLE WAY**
**SAN FRANCISCO, CA 94127**

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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
FEB 27 2009
OFFICE OF PETITIONS

Applicant: Swindell et al.
Appl. No.: 11/835,802
Filing Date: August 8, 2007
Title: FATTY ALCOHOL DRUG CONJUGATES
Attorney Docket No.: N0260.70051US01
Pub. No.: US 2008/0090803 A1
Pub. Date: April 17, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 11, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 8, wherein the words "is" and "the" are missing.

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 in omission of "is" and "the" noted by requestor in the claim is not a material Office error under 37 CFR 1.221. The surrounding sentence allows the public to understand the intended meaning. The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the claim. The mistake is a minor typographical, which does not affect the understanding of the dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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FEB 01 2008

OFFICE OF PETITIONS

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

In re Application of :
Yang et al. :
Application No. 11/835,807 :
Filed: August 8, 2007 :
Attorney Docket No. JCLA24824 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication 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
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JUN 30 2010

OFFICE OF PETITIONS

Shumaker & Sieffert, P.A
1625 Radio Drive , Suite 300
Woodbury, MN 55125

| | | |
|---|---|---|
| Applicant: Shepherd, 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. 11/835,817 | : | WYETH |
| Filed: August 8, 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

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. |
|---|---|---|---|---|
| 11/835,842 | 08/08/2007 | Scott Thomas Sanders | 1512.237 | 2155 |

23598 7590 10/29/2009
BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

| EXAMINER |
|---|
| PARK, KINAM |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2828 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/29/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10212009

BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

| | | |
|---|---|---|
| Appl No.: 11/835,842 | : | |
| Scott Thomas Sanders | : | **DECISION ON PETITION** |
| Filed: August 8, 2007 | : | **UNDER** *37 CFR 1.48(a)* |
| For: MULTISPECTRAL LASER WITH IMPROVED TIME DIVISION MULTIPLEXING | : | |

This is a decision on the applicant's "Correction of inventorship in a Patent Application" originally filed under 37 CFR 1.48(a), filed September 15, 2009. The applicant requests that the name of Thilo Kraetschmer be added to the list of inventors as originally filed, namely, Scott Thomas Sanders.

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:

Scott Thomas Sanders and Thilo Kraetschmer,

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

Commissioner for Patents
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P.O. Box 1450
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DIGEO, INC C/O STOEL RIVES, LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of
Paul G. Allen, et. al.
Application No. 11/835,848
Filed: August 8, 2007
Attorney Docket No. 50588/423

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 May 12, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because Kory D. Christensen and the attorneys/agents associated with Customer No. 32641 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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BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED

SEP 2 4 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fathallah, et al. | : | |
| Application No. 11/835,894 | : | DECISION |
| Filed/Deposited: 8 August, 2007 | : | |
| Attorney Docket No. 7101USD2 | : | |

This is a decision on the petition filed on 24 August, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c )(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 7 January, 2009, with reply due absent extension of time on or before 7 April, 2009.

The application went abandoned by operation of law after midnight 7 April, 2009.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 24 August, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, a statement of search of the file and non-discovery, a copy of the docket sheet (or file jacket cover) for the instant application, but no complete recitation as required (see below) and no copy of the due date calendar/docket for the firm and other such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c )(I).

The Office mailed the Notice of Abandonment on 26 august, 2009.

The guidance in the Commentary at MPEP §711.03(c )(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

### Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

## CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

[1] *See*: MPEP §711.03(c ) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

## ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
**(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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. |
|---|---|---|---|---|
| 11/835,894 | 08/08/2007 | Marwan A. Fathallah | 7101USD2 | 2224 |

41155 7590 01/07/2009
BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST, IL 60045-2579

| EXAMINER |
|---|
| BAYOU, AMENE SETEGNE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3746 | |

| 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.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/835,894 | FATHALLAH ET AL. | |
| | Examiner | Art Unit | |
| | AMENE S. BAYOU | 3746 | |

*-- 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 10/13/08.

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) 1-31 is/are pending in the application.

4a) Of the above claim(s) 1-21 and 26-31 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 22-25 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 08 August 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

### *Claim Rejections - 35 USC § 102*

1. 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.

2. Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Warner et al.(US patent number 5601420).

3. In re claim 22 Warner et al.'420 disclose an interlock mechanism including:

- A medical pump for use with a cassette,in figure 1-2,comprising: a main chassis (12) having a fixed seat thereon; a main carriage (242,shown in figure 10) connected to the main chassis (12,column 11,lines 19-22) and having an opening therein adapted to receive a cassette (14), the opening forming a carriage footing which restricts movement of the cassette (14) within the main carriage (242) the main carriage (242) being movable inwardly with respect to the main chassis (12) from an open position wherein the main carriage is spaced from the fixed seat to a closed position to engage the cassette (14) to the fixed seat (column 13,lines 50-55) ; and a rear carriage assembly (10,shown in figure 3 in detail) connected to the main carriage (242,as clearly shown in figure 10), the rear carriage assembly (10) including a manual release element (28) operatively associated with the main carriage so that once the

manual release element (28) is actuated by a user the main carriage is moved to the open position (column 14,lines 29-45).

4. In re claim 23 Warner et al.'420 disclose an interlock mechanism including:

- An actuator (having cams 142,146 described in column 13,lines 34-55) connected to the main carriage (242) to automatically move the main carriage (column 13,lines 34-55), wherein the actuator is connected to the main carriage (242) by the rear carriage assembly (10) , once the manual release element (28) is actuated by a user the rear carriage assembly (10) disengages the actuator from the main carriage (242),in column 14,lines 29-45.

5. In re claim 24 Warner et al.'420 disclose an interlock mechanism including:

- The actuator (having cams 142,146 described in column 13,lines 34-55) cannot be reengaged to the main carriage (242) by manually moving the main carriage (242) horizontally inwardly with respect to the main chassis (12),(because the release element 28 need to be disengaged in order to do that)

6. In re claim 25 Warner et al.'420 disclose an interlock mechanism including:

- The manual release element (28) is located remotely from the main carriage (242),in figure 10.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene S. Bayou whose telephone number is 571-270-3214. The examiner can normally be reached on Monday-Thursday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. 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.

/Devon C Kramer/
Supervisory Patent Examiner, Art Unit 3746

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 16 2007

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

| | |
|---|---|
| In re Application of | : |
| Lorin Johnson | : DECISION ON PETITION TO MAKE |
| Serial No.: 11/835,897 | : SPECIAL FOR NEW APPLICATION |
| Filed: August 8, 2007 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: 66578CIP(47381) | : § 708.02 |

This is a decision on the petition filed August 8, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in an agreement that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a Final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the Final Office action, applicant must: 1) promptly file a Notice of Appeal, an Appeal Brief and Appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after Final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a Final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MATTHEW G. MCKINNEY
KIRWIN NORRIS, P.A.
SUITE 150
338 W. MORSE BLVD.
WINTER PARK FL 32789

**COPY MAILED**

NOV 06 2007

**OFFICE OF PETITIONS**

In re Application of
Brian Andrew et al.
Application No. 11/835,905
Filed: August 8, 2007
Attorney Docket No. 762-03

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed under 37 CFR 1.47(a) on October 23, 2007(October 19, 2007 certificate of mail date).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on August 8, 2007, without an oath or declaration. Accordingly, on August 20, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, and a declaration executed only by joint inventor John Carter, in his own stead and on behalf of non-signing joint inventor Brian Andrew, was filed. Petitioner claims that joint inventor Andrew has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventors. Petitioners have noted that the application was sent to counsel for Mr. Andrew, by email, but it hasn't been established that counsel for Mr. Andrew actually received the complete application documents. In the absence of an express statement from a non-signing inventor that they have received, opened and read a document, unlike a printed page in the language of the recipient there is no basis to presume that an Emailed document was in a form comprehended.

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that if after having received the complete application, the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

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MATTHEW G. MCKINNEY
KIRWIN NORRIS, P.A.
SUITE 150
338 W. MORSE BLVD.
WINTER PARK, FL 32789

**COPY MAILED**

JAN 30 2008

**OFFICE OF PETITIONS**

In re Application of
Brian Andrew et al.
Application No. 11/835,905
Filed: August 8, 2007
Attorney Docket No. 762-03

ON PETITION

This is in response to the renewed petition filed January 7, 2008 under 37 CFR 1.47(a) and the subsequently filed papers submitted January 9, 2008.

A Notice to File Missing Parts was mailed August 20, 2007 noting, *inter alia*, that the oath or declaration filed with the application was unsigned. The Notice set a two month period for response. A proper response to a Notice to File Missing Parts can be either an executed oath or declaration or a petition under 37 CFR 1.47. A timely petition was filed October 23, 2007 however, the petition was dismissed in a decision mailed November 6, 2007 because while petitioners argued that joint inventor Brian Andrew refused to sign the declaration, petitioners did not submit sufficient evidence to prove that a copy of the application was sent or given to the nonsigning inventor.

Prior to consideration of the renewed petition, petitioners have now provided an oath or declaration executed by the previously non-signing inventor, Brian Andrew, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, no consideration of the renewed petition under 37 CFR 1.47(a) is necessary.

Therein, the petition filed January 7, 2008 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to the Office of Patent Application Processing for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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**WINSTON & STRAWN LLP**
**Patent Department**
**1700 K Street, N.W.**
**Washington, DC 20006**

COPY MAILED
JAN 13 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Marvin A. Sackner, et al. | : | |
| Application No. 11/835,913 | : | DECISION ON PETITION |
| Filed: August 8, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 85167-73399 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 Allan A. Fanucci 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 to the assignee 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: **Howard Baker-VivoMetrics, Inc.**
**c/o Ralph C. Francis**
**Francis Law Group**
**1942 Embarcadero Street**
**Oakland, CA 94606**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/835,913 | 08/08/2007 | Marvin A. Sackner | 85167-73399 |

**CONFIRMATION NO. 2260**

**POWER OF ATTORNEY NOTICE**

28765
WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

*OC000000039642660*

Date Mailed: 01/13/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

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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Date Mailed: December 12, 2008

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

Applicant: Muto et al.
Appl. No.: 11/835,997
Filing Date: August 8, 2007
Title: INFLAMMATORY CYTOKINE RELEASE INHIBITOR
Attorney Docket No.: P32362
Pub. No.: US 2008/0249071 A1
Pub. Date: October 9, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 11, 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**. In addition, the applicant did not provide a copy of the application. 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**. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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: 12/15/2008  KKING1
12/11/2008 INTEFSW  00008459 11835997
01 FC:1504                    -300.00 OP
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Refund Ref:
12/15/2008          0030064573
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Credit Card Refund Total:      $300.00

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/835,997 | 08/08/2007 | Susumu MUTO | P32362 | 2415 |

7055 7590 12/31/2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/31/2008 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed: December 31, 2008

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

Applicant: Muto et al.
Appl. No.: 11/835,997
Filing Date: August 8, 2007
Title: INFLAMMATORY CYTOKINE RELEASE INHIBITOR
Attorney Docket No.: P32362
Pub. No.: US 2008/0249071 A1
Pub. Date: October 9, 2008

This is a decision on the second request for republication of patent application publication under 37 CFR 1.221(a), filed on December 30, 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**. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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: 12/31/2008  KKING1
12/30/2008 INTEFSW  00007041 190089   11835997
01 FC:1504        300.00 CR
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Alexandria, VA 22313-1450
www.uspto.gov

**Townsend and Townsend and Crew, LLP**
**Two Embarcadero Center**
**Eighth Floor**
**San Francisco, CA 94111-3834**

MAILED

MAY 05 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jeffrey J. Hagen, et al. | : | |
| Application No. 11/836,035 | : | DECISION ON PETITION |
| Filed: August 8, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 021433-001710US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James M. Heslin on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Jeffrey J. Hagen, Ph.D**
**18230 20th Avenue North**
**Plymouth, MN 55447**

cc: **Patterson, Thuente, Skaar & Christensen, P.A.**
**4800 IDS Center**
**80 South 8th Street**
**Minneapolis, MN 55402-2100**

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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 |
|---|---|---|---|
| 11/836,035 | 08/08/2007 | Jeffrey J. Hagen | 021433-001710US |

**CONFIRMATION NO. 2489**

**POWER OF ATTORNEY NOTICE**

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

*OC000000035823056*

Date Mailed: 05/05/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2009.

- 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/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**TOWNSEND AND TOWNSEND AND CREW, LLP**
**TWO EMBARCADERO CENTER, EIGHTH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

**COPY MAILED**

JUN 04 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **Martin A. ROSSING, et al.** | : | |
| Application No. 11/836,042 | : | DECISION ON PETITION TO |
| Filed: August 8, 2007 | : | WITHDRAW FROM RECORD |
| Attorney Docket No. **021433-001420US** | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by James M. Heslin on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address as it is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor Martin A. Rossing at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **MARTIN A. ROSSING**
**1930 127TH CIRCLE NW**
**COON RAPIDS, MN 55448**

cc: **PATTERSON THUENTE SKAAR & CHRISTENSEN, PA.**
**80 SOUTH 8TH STREET – 4800 IDS CENTER**
**MINNEAPOLIS, MN 55402-2100**

Attachment: Power/Revocation/New Power Of Attorney with Address Change (PTO/SB/81)

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

**Townsend and Townsend and Crew, LLP**
**Two Embarcadero Center**
**Eighth Floor**
**San Francisco, CA 94111-3834**

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APR 0 2 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Martin A. Rossing et al. | : | |
| Application No. 11/836,047 | : | DECISION ON |
| Filed: August 8, 2007 | : | PETITION TO WITHDRAW |
| Attorney Docket No. 021433-001320US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that James M. Heslin and all attorneys/agents associated with customer number 20350: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

PATENT LAW GROUP LLP
2635 North First Street
Suite 223
San Jose, CA 95134

MAIL

MAR 15 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Donghui Wu *et al.* :
Serial No.: 11/836, 089 :
Filed: August 8, 2007 : DECISION ON PETITION
For: **BETTER PICTURE FOR INEXPENSIVE CAMERAS** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(b)(2) filed October 19, 2007 requesting acceptance of color drawings.

The petition requests that the photographs identified in Figures 1A, 1B, 2C, 4A, 4B, 6A, 6B, 7A, 7B, 8A and 8B be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets 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 is GRANTED.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**GILBRETH & ASSOCIATES, P.C.**
**PO BOX 2428**
**BELLAIRE TX 77402-2428**

**MAILED**

JUN 10 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chengbin Peng | : | DECISION ON PETITION |
| Application No. 11/836,130 | : | TO WITHDRAW |
| Filed: August 8, 2007 | : | FROM RECORD |
| Attorney Docket No. 28090/03 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 30, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Gilbreth & Associates, P.C. does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Gilbreth & Associates, P.C. not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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JUN 11 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jose Hernandez-Rebollar | : | |
| Application No. 11/836,136 | : | ON PETITION |
| Filed: August 8, 2007 | : | |
| Attorney Docket No. 130761.00109 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice), mailed August 20, 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. The application became abandoned on October 21, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The petition does not satisfy item (1) in that the drawings filed concurrently with the instant petition lack the labeling "Replacement Sheets" in order for compliance with 37 CFR 1.84(c) and 37 CFR 1.121(d) required by the Notice mailed January 10, 2008. This application can not be revived until the item noted above is corrected.

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 JoAnne Burke at (571) 272-4584.

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
www.uspto.gov

**BLANK ROME LLP**
**WATERGATE**
**600 NEW HAMPSHIRE AVENUE, N.W.**
**WASHINGTON DC 20037**

**COPY MAILED**

SEP 14 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jose Hernandez-Rebollar | : | |
| Application No. 11/836,136 | : | DECISION ON PETITION |
| Filing Date: August 8, 2007 | : | |
| Attorney Docket No. 130761.00109 | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings and declaration, (2) the petition fee of $810 (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 Patent Application Processing.

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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MAR 1 1 2009

OFFICE OF PETITIONS

**JUNEAU PARTNERS**
**P.O. BOX 2516**
**ALEXANDRIA VA 22301**

| | | |
|---|---|---|
| In re Application of | : | |
| Hernandez-Rebollar | : | |
| Application No. 11/836,139 | : | ON PETITION |
| Filed: August 8, 2007 | : | |
| Attorney Docket No. GWU-Hern-Skl | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2009 and supplemented on February 9, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notices mailed August 20, 2007 and November 8, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The Office is in receipt of the drawing submitted on October 30, 2007, however the drawing is not properly identified in the top margin as "Replacement Sheet", "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

Further, the declaration submitted on October 30, 2007, fail to indicate the Citizenship of inventor Jose L. Hernandez-Rebollar as required by 37 CFR 1.63(c)(1).

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 Patent Electronic Business Center at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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**JUNEAU PARTNERS**
**P.O. BOX 2516**
**ALEXANDRIA VA 22301**

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Hernandez-Rebollar
Application No. 11/836,139
Filed: August 8, 2007
Attorney Docket No. GWU-Hern-Ski

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 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 substitute drawing sheet and declaration and required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed November 8, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Menahem Lasser | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7660166 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/836,158 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/09/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **19** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**BERESKIN AND PARR**
**40 KING STREET WEST**
**BOX 401**
**TORONTO, CANADA M5H 3-Y2**

**COPY MAILED**

MAR 20 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Michel BOUCHARD, et al | : | |
| Application No. 11/836,214 | : | DECISION ON PETITION |
| Filed: August 9, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 14834-11 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 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 Sandra Beauchesne on behalf of all attorneys/agents of record associated with Customer Number 01059.

All attorneys/agents of record associated with Customer Number 01059 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RFAD INC.
92 RANG DOUBLE
SAINT-CHARLES-BORROMEE,
QUEBEC J1H 1S1
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/836,214 | 08/09/2007 | Michel Bouchard | 14834-11 |

**CONFIRMATION NO. 2822**

**POWER OF ATTORNEY NOTICE**

*OC000000028964471*

1059
BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

Date Mailed: 03/20/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**NUTTER MCCLENNEN & FISH LLP**
**WORLD TRADE CENTER WEST**
**155 SEAPORT BOULEVARD**
**BOSTON, MA 02210-2604**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William M. Wolf | : | |
| Application No. 11/836,228 | : | ON PETITION |
| Filed: August 9, 2007 | : | |
| Attorney Docket No. 102351-0011 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 a statement from the attorney for the applicant that the applicant is 78 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at 571-272-6059. 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 2191 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**BURR & BROWN**
**PO BOX 7068**
**SYRACUSE NY 13261-7068**

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AUG 23 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gunjian, Armen G. | : | |
| Application No. 11/836,236 | : | ON PETITION |
| Filed: August 9, 2007 | : | |
| Attorney Docket No. 945_001 DIV | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 a statement from the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1744 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAYBACK & HOFFMAN, PA
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE, FL 33330

COPY MAILED
SEP 26 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Paul A. Heltai | : | |
| Application No. 11/836,246 | : | DECISION ON PETITION |
| Filed: August 9, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. Heltai/Patent | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 21, 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 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 3633 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/836,272 | 08/09/2007 | Iku Kuo | 071920US(0795) | 2933 |

7590 06/18/2009
KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY, MN 55422

| EXAMINER |
|---|
| BOOTH, MICHAEL JOHN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3774 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/18/2009 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
06/17/2009 0030071352

Credit Card Refund Total: $250.00

VISA....: XXXXXXXXXXXX7408

Adjustment date: 06/17/2009 NFARMER
08/09/2007 INTEFSW 00012655 11836272
02 FC:2111 -250.00 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

FISH AND RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED
JAN 08 2009

Applicant: SHERB, et al.
Appl. No.: 11/836,349
Filing Date: August 9, 2007
Title: DISTRIBUTING SERVICES IN GRAPH-BASED COMPUTATIONS
Attorney Docket No.: 7470-117001
Pub. No.: US 2008/0049022 A1
Pub. Date: February 28, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 21, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material errors in several paragraphs in the specification and in claims 2 and 15.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error in several paragraphs of the specification, and in claims 2 and 15.

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 in the specification and the claims may be Office errors, but they are not material Office errors under 37 CFR 1.221. The occurrence of these minor errors does not affect the understanding of the application, as it represents only minor typographical error. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent, as the public may easily deduce from the surrounding sentences the words intended.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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 Michael Cygan at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

October 8, 2009

Patent No. : 7,583,439 B2
Ser. No. : 11/836,351
Inventor(s) : Chang-Ching Tsai, et al.
Issued : September 1, 2009
Title : **WIDE-ANGLE AND BROADBAND POLARIZATION CONVERTER**
Docket No. : **UCF-633**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

**Antonio Johnson**
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

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

Paper No.

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

**COPY MAILED**

DEC 21 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>Guan-Ting Lu and Cheng-Han<br>Hsieh<br>Application No. 11/836,370<br>Filed: August 9, 2007<br>Attorney Docket Number:<br>JCLA21409<br>Title: METHOD FOR DETECTING<br>PIXEL STATUS OF FLAT PANEL<br>DISPLAY AND DISPLAY DRIVER<br>THEREOF | :<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>PURSUANT TO 37 C.F.R.<br>37 C.F.R. § 1.47(A) |

This is in response to the petition under 37 C.F.R. § 1.47(a)[1], filed October 22, 2007.

The petition 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 August 9, 2007, the application was filed, identifying Guan-Ting Lu and Cheng-Han Hsieh as joint inventors. The application was deposited without an executed oath or declaration. On August 22, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the present petition, Petitioner has included, *inter alia*, a declaration that has been signed by Mr. Cheng-Han, the fee that is associated with the late submission of the same, and a portion of the petition fee[2]. Petitioner has further submitted copies of letters that were sent to the non-signing inventor, and English translations of the same.

Petitioner has met requirements (1) - (4) of Rule § 1.47(a).

Regarding the fifth requirement, it is noted that the address for the non-signing inventor that appears on the declaration is not the same address that was given as his last known address. Presuming that the statement of facts is to be believed, Petitioner will need to submit a new declaration that contains the correct address for the signing joint inventor.

Alternatively, if the address that appears on the declaration is correct, a complete copy of the application will need to be sent to that address, and Petitioner will need to provide the non-signing inventor with an adequate period of time to respond before filing a renewed petition.

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[3], hand-delivery[4], or facsimile[5]. Registered

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2 The remainder of the same has been charged to Petitioner's Deposit Account, as authorized in the petition.
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.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
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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Paper No.

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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MAR 1 1 2008
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| | |
|---|---|
| In re Application of Guan-Ting Lu and Cheng-Han Hsieh<br>Application No. 11/836,370<br>Filed: August 9, 2007<br>Attorney Docket Number: JCLA21409<br>Title: METHOD FOR DETECTING PIXEL STATUS OF FLAT PANEL DISPLAY AND DISPLAY DRIVER THEREOF | DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. 37 C.F.R. § 1.47(A) |

This is in response to the renewed petition under 37 C.F.R. § 1.47(a)[1], filed February 20, 2008.

This renewed petition is **GRANTED**.

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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 August 9, 2007, the application was filed, identifying Guan-Ting Lu and Cheng-Han Hsieh as joint inventors. The application was deposited without an executed oath or declaration. On August 22, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

An original petition was filed on October 22, 2007, and was dismissed via the mailing of a decision on February 21, 2007.

With this renewed petition, Petitioner has included a declaration that contains the correct address for the signing joint inventor.

Petitioner has met all requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, this application is hereby accorded Rule § 1.47(a) status.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Guan-Ting Lu
2F, No. 50, Alley 51, Lane 12, Sec. 3, Bade Rd.
Songshan District, Taipei City 105
Taiwan (R.O.C.)

COPY MAILED

MAR 1 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Guan-Ting Lu and Cheng-Han | : | |
| Hsieh | : | |
| Application No. 11/836,370 | : | |
| Filed: August 9, 2007 | : | LETTER |
| Attorney Docket Number: | : | |
| JCLA21409 | : | |
| Title: METHOD FOR DETECTING | : | |
| PIXEL STATUS OF FLAT PANEL | : | |
| DISPLAY AND DISPLAY DRIVER | : | |
| THEREOF | : | |

Dear Mr. Lu:

You are named a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries **regarding this communication** should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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glm

9-18-07

| | | |
|---|---|---|
| In re application of<br>Varghese et al.<br>Serial No. 11/836,402<br>Filed: August 9, 2007<br>For: THIN MULTIJUNCTION SOLAR CELLS WITH PLATED METAL OHMIC CONTACT AND SUPPORT | : | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the petition filed on August 9, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DISMISSED.**

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours must be filed;

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support

under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-4 and 6) are considered to have been met. However, the petition fails to comply with section II, subsection 5.

As noted above, the preexamination search must include an identification of the field of search by United States class and subclass, and the search logic used for database searches. The instant petition does not adequately describe the preexamination search. Specifically, the examination support document merely states that the patent search was conducted in class 136, subclass "243+" and that a nonpatent literature (NPL) search used various terms such as plating and electroplating.

Regarding the patent search, it is not clear what subclasses are covered by the "+" nor is it clear which actual files were searched (e.g., patents or published applications, or both). It is also unclear if any foreign patents were searched. Regarding the NPL search, it is not clear what logic was used to combine the various search terms. Given the lack of specificity in documenting the search, the Office is unable to determine if the preexamination search is adequate. Consequently, the petition does not meet the requirement of section II, subsection 5 above.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

For the above-stated reasons, the petition is dismissed. The application will be taken up by the examiner in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Casey Toohey
Emcore Corporation
1600 Eubank Blvd., SE
Albuquerque NM 87123

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. |
|---|---|---|---|---|
| 11/836,402 | 08/09/2007 | Tansen Varghese | 7003 (9456-101834) | 3121 |

7590 10/24/2007

Casey Toohey
Emcore Corporation
1600 Eubank Blvd., SE
Albuquerque, NM 87123

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1753 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/24/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

glm

10-23-07

| | | |
|---|---|---|
| In re application of | : | |
| Varghese et al. | : | |
| Serial No. 11/836,402 | : | DECISION ON |
| Filed: August 9, 2007 | : | REQUEST FOR |
| For: THIN MULTIJUNCTINO SOLAR | : | RECONSIDERATION |
| CELLS WITH PLATED METAL OHMIC | : | |
| CONTACT AND SUPPORT | : | |

This is a decision on the request for reconsideration filed on October 16, 2007 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED.**

A petition to make special was filed in the above-identified application under 37 CFR 1.102(d) on August 9, 2007. That petition was dismissed in a decision mailed September 18, 2007, wherein a non-extendable period of 1 (one) month or 30 (thirty) days, whichever was longer, was set to request reconsideration.

The reason for the dismissal was that the pre-examination search was insufficiently documented, preventing determination of its adequacy.

The request for reconsideration provides further details of the pre-examination search, however, the search is considered incomplete and inadequate. A search in class 438, subclasses 74, 87, and 98 is required to cover the method of claims 1-18, and a search in class 136, subclass 255 is required to cover the mutijunction cells made in claims 2, 7, and 19. The search performed is thus incomplete.

That the pre-examination search is inadequate is shown by US Patent 5,380,371 to Murakami, classified in class 136, subclass 256. Referring to Figure 2B and column 10, Murakami discloses a method of making a solar cell comprising providing a first substrate (201), depositing a sequence of semiconductor layers (203, 204, 205) on the substrate to form a solar cell, forming an ohmic contact layer (208) on the cell and electroplating a metallic contact layer (209) over the ohmic contact layer. Note in particular column 10, lines 34-37. Absence of Murakami from the list of references deemed most closely relevant indicates that the search was inadequate.

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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Casey Toohey
Emcore Corporation
1600 Eubank Blvd., SE
Albuquerque NM 87123

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

4/3/09

| | | |
|---|---|---|
| In re Application of | : | |
| SUZUKI, KUNIHIKO et al | : | DECISION ON REQUEST TO |
| Application No. 11/836,409 | : | PARTICIPATE IN PATENT |
| Filed: Aug. 9, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. Q-107844 | : | PROGRAM AND PETITION |
| For: CONTROL DEVICE OF INTERNAL | : | TO MAKE SPECIAL UNDER |
| COMBUSTION ENGINE | : | 37 CFR 1.102(d) |

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program under 37 CFR 1.102(d), filed March 26, 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) of $130.00 has been paid.

The request to participate in the PPH program and petition comply with the above requirements. Receipt of the preliminary amendment on March 26, 2009 is acknowledged and has been entered. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner Michael Cuff, Art Unit 3741, at 571-272-6778.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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SUITE 350
BIRMINGHAM MI 48009

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OFFICE OF PETITIONS

In re Patent No. 7530630 :
Issue Date: 05/12/2009 :
Application Number: 11/836435 : ON PETITION
Filing Date: 08/09/2007 :
Attorney Docket Number: 60130-2814; 06ARM0311 :

This is a decision on the petition filed on September 2, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/836,468 | 08/09/2007 | David F. Fijas | 89663.091604 US3 | 3253 |

7590 12/09/2009
Jaekle Fleischmann & Mugel, LLP
12 Fountain Plaza
Buffalo, NY 14202-2292

| EXAMINER |
|---|
| ALI, MOHAMMAD M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3744 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/09/2009 | ELECTRONIC |

## DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☒ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651D (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/836,468 | 08/09/2007 | David F. Fijas | 89663.091604 US3 | 3253 |

7590 01/07/2010
PHILLIPS LYTLE LLP
INTELLECTUAL PROPERTY GROUP
3400 HSBC CENTER
BUFFALO, NY 14203-3509

| EXAMINER |
|---|
| ALI, MOHAMMAD M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3744 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/07/2010 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kaletus Buchanan
Patent Publication Branch
Office of Data Management

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Adjustment date: 01/07/2010  KKING1
08/10/2007 INTEFSW  00000918 100223   11836468
02 FC:1111        500.00 CR
04 FC:1201        200.00 CR
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FORM PET651G (Rev. 08/07)

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436 SEVENTH AVENUE
PITTSBURGH PA 15219

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DEC 09 2008

| | |
|---|---|
| In re Application of | : |
| Kataoka, et al. | : |
| Deposited: August 9, 2007 | : ON PETITION |
| Application No. 11/836,522 | : |
| Atty. Dkt. No.: 1217-072764 | : |

This decision in response to the "PETITION UNDER 37 C.F.R. § 1.57(a) TO ACCORD A FILING DATE," filed September 23, 2008 to accord the instant application a filing date of August 9, 2007.

The application was deposited August 9, 2007. The Notice of Incomplete Nonprovisional Application (Notice) mailed September 11, 2008 indicated that the application had not been accorded a filing date because the application appeared to have been submitted without a specification as required per 35 USC 112.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee).

The Notice further indicated that if the application contained 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 applicants want to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the above-identified application, applicants 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.

Petitioners request a filing date of August 9, 2007 pursuant to 37 CFR 1.57(a) and seek to add the inadvertently omitted specification to the application. Petitioners have submitted the specification, including the claims, abstract and drawings; an amendment requesting entry of the missing specification, including claims, abstract, and drawings; a copy of the declaration and power of attorney which identifies the priority

application as Japanese Patent Application No. 2006-220685 filed August 11, 2006; and, the required petition fee of $400.00.

In accordance with 37 CFR 1.57 and MPEP 201.17, the following conditions and requirements need to be met for an applicant to add omitted material to an application pursuant to 37 CFR 1.57(a):

(A) the application must have been filed on or after September 21, 2004;
(B) all or a portion of the specification or drawing(s) must have been inadvertently omitted from the application;
(C) 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, must have been present on the filing date of the application;
(D) the inadvertently omitted portion of the specification or drawing(s) must be completely contained in the prior-filed application;
(E) applicant must file an amendment 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 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier;
(F) if the application is not otherwise entitled to a filing date, applicant must also file a petition and the amendment under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f);
(G) applicant must supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
(H) applicant must supply an English language translation of any prior-filed application that is in a language other than English; and
(I) applicant must identify where the inadvertently omitted portion of the specification or drawing(s) can be found in the prior-filed application.

The instant petition fails to satisfy requirements (H) and (I) set forth above. It is noted that a certified copy of the foreign application was submitted September 16, 2008. However, the petition does not include an English language translation of the prior-filed application. Further, the petition does not

identify where the omitted specification can be found in the prior-filed foreign application. Absent an English language translation of the foreign document, it cannot be determined where the specification can be found.

In view thereof, the petition under 37 CFR 1.57(a) is hereby **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.57(a)," and should only address the deficiencies noted herein. The time period for reply **is not** extendible pursuant to 37 CFR 1.136.

The required petition fee of $400.00 will not be refunded since the petition was necessary to correct petitioners' filing error.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Kataoka, et al. :
Filed: August 9, 2007 : ON PETITION
Application No. 11/836,522 :
Atty. Dkt. No.: 1217-072764 :

This decision in response to renewed petition under 37 CFR 1.57(a), filed February 4, 2009 to accord the instant application a filing date of August 9, 2007.

The application was deposited August 9, 2007. The Notice of Incomplete Nonprovisional Application (Notice) mailed September 11, 2008 indicated that the application had not been accorded a filing date because the application appeared to have been submitted without a specification as required per 35 USC 112.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee).

The Notice further indicated that if the application contained 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 applicants want to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the above-identified application, applicants 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.

A petition under 37 CFR 1.57(a) was filed September 23, 2008 and dismissed December 9, 2008 for failing to comply with (H) and (I) set forth below.

In accordance with 37 CFR 1.57 and MPEP 201.17, the following conditions and requirements need to be met for an applicant to

add omitted material to an application pursuant to 37 CFR 1.57(a):

(A) the application must have been filed on or after September 21, 2004;
(B) all or a portion of the specification or drawing(s) must have been inadvertently omitted from the application;
(C) 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, must have been present on the filing date of the application;
(D) the inadvertently omitted portion of the specification or drawing(s) must be completely contained in the prior-filed application;
(E) applicant must file an amendment 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 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier;
(F) if the application is not otherwise entitled to a filing date, applicant must also file a petition and the amendment under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f);
(G) applicant must supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
(H) applicant must supply an English language translation of any prior-filed application that is in a language other than English; and
(I) applicant must identify where the inadvertently omitted portion of the specification or drawing(s) can be found in the prior-filed application.

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above. Accordingly, the inadvertently omitted specification, submitted September 23, 2008, will be entered into the record.

In view thereof, the petition under 37 CFR 1.57(a) is hereby **GRANTED**.

The application is being forwarded to the Office of Patent Application Processing for accordance of a filing date of August 9, 2007. A filing receipt will issue in due course.

Telephone inquiries related to this decision may be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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**1100 NEW YORK AVENUE N.W.**
**WASHINGTON, DC 20005**

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| | | |
|---|---|---|
| In re Application of | : | |
| **Thomas D. REED**, et *al.* | : | |
| Application No. 11/836,563 | : | NOTICE UNDER 37 CFR 1.28(c) |
| Filed: August 9, 2007 | : | |
| Attorney Docket No. | : | |
| **2584.0390001/RWE/GER** | | |

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 the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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**MARSHALL, GERSTEIN & BORUN, LLP**
**(MARVELL)**
**233 SOUTH WACKER DRIVE**
**6300 SEARS TOWER**
**CHICAGO IL 60606-6357**

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| | | |
|---|---|---|
| In re Application of | : | |
| Francesco Rezzi et al | : | |
| Application No. 11/836,571 | : | DECISION GRANTING PETITION |
| Filed: August 9, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. MP1233 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 2, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on June 17, 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 2819 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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2ND FLOOR
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Ta-Te Chou et al. :
Application No. 11/836,579 :
Filed: August 09, 2007 :
Attorney Docket No. GS 223 :

DECISION ON PETITION

This is a decision on the petition, under 37 CFR 1.137(b) filed on January 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the election of species requirement mailed May 12, 2008, which set a shortened statutory period for reply of one (1) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 13, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply, in the form of an election of species; (2) the petition fee of $1620 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 the election of species requirement mailed May 12, 2008 is accepted as having been unintentionally delayed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Application No. 11/836,579

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

The Application is being referred to Art Unit 2891 for further processing.

David Buczek
Petitions Examiner
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Andre L. Marais
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
7th Floor
12400 Wilshire Boulevard
Los Angeles CA 90025

In re Application of:
LYNAM, JOE M., et al.
Serial No.: 11/836,603
Filed: August 9, 2007

Title: **METHOD AND APPARATUS TO VALIDATE A SUBSCRIBER LINE**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on August 9, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 5.2, 5.3, and 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/ subclasses: 379/142.01-142.18 and 379/111-141.

Regarding the requirement in item 6.5 above, the Accelerated Examination Support Document is deficient because it fails to show support in the written description of the instant specification for all claim limitations. It is not adequate to show support only in the applications for which petitioner is claiming benefit. Support must also be shown in the present written description

If any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5.2 and 5.3 above, and the Preexamination Search Document must be amended to indicate such; and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
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Washington DC 20005

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|---|---|---|
| In re Application of | : | |
| Fredrik Arnell | : | |
| Application No. 11/836,613 | : | DECISION ON PETITION |
| Filed: August 9, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **HPX0094-US** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 24, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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6300 SEARS TOWER
CHICAGO, IL 60606-6357

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OFFICE OF PETITIONS

In re Application of :
Francesco Rezzi et al :
Application No. 11/836,628 : ON PETITION
Filed: August 9, 2007 :
Attorney Docket No. MP1236

This is a decision on the petition, filed July 2, 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 June 17, 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 2819 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Catherine Chingi Chang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613055 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/836,639 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/09/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Alan P. Escher | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638498 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/836,661 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/09/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **252** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 07 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of:
Michael A. Schwarz, et al.
Serial No.: 11/836,686
Filed: August 9, 2007

Title: **METHOD AND SYSTEM TO VERIFY THE IDENTITY OF A USER**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on August 9, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

## REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete. A Notice to File Corrected Application Papers was mailed on August 13, 2007 due to problems with the drawings.

Therefore, the petition is denied because the application was not complete at the time of filing as per item 3. above. After the application is considered complete by the Office of Initial Patent Examination (OIPE), it will be taken up by the examiner for action in its regular turn.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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**BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP**
**1279 OAKMEAD PARKWAY**
**SUNNYVALE CA 94085-4040**

COPY MAILED

APR 2 9 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Akira Ohnishi | : | |
| Application No. 11/836,693 | : | DECISION GRANTING PETITION |
| Filed: August 9, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 007776.P016 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 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 March 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
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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OCT 21 2009

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899

In re Application of
Ellie Helou
Application No. 11/836,699
Filed: August 9, 2007
Attorney Docket No. 70006-00005

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 1, 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 July 25, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 28, 2010 accompanies this decision on petition.

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 Art Unit 2438 for examination in due course.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: John D. Mcconaghy
333 S. Grand Ave. # 2300
Los Angeles, CA 90071

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/836,699 | 08/09/2007 | Elie Helou JR. | 70006-00005 |

**CONFIRMATION NO. 3675**

58688
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

**NONPUBLICATION RESCISSION LETTER**

*OC000000038374131*

Date Mailed: 10/20/2009

## 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 01/28/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/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

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**TOWNSEND TOWNSEND & CREW, LLP**
**TWO EMBARCADERO CENTER, 8TH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

**MAILED**

MAR 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Christopher K. **RAYMOND, et al.** | : | |
| Application No. 11/836,704 | : | DECISION GRANTING PETITIONS |
| Filed: August 9, 2007 | : | UNDER 37 CFR 1.137(b) AND |
| Attorney Docket No. **03-06D3** | : | 37 CFR 1.313(c)(2) |

This is a decision on the petitions, filed March 3, 2009, March 4, 2009 and re-submitted March 10, 2009 under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

***As to the petition under 37 CFR 1.137(b):***

This application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1510 issue fee and the $300 publication fee, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the Notice of Allowance is accepted as having been unintentionally delayed.

***As to the petition under 37 CFR 1.313(c)(2):***

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

***Petitioner is advised that the issue fee paid in this application 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 matter is being referred to Technology Center AU 1656 for processing the RCE and for consideration of the Information Disclosure Statement submitted on March 3, 2009.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] **Error! Main Document Only.** *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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**ZYMOGENETICS, INC.**
**INTELLECTUAL PROPERTY DEPARTMENT**
**1201 EASTLAKE AVENUE EAST**
**SEATTLE, WA 98102-3702**

**MAILED**

MAR 18 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Christopher K. **Raymond, et al.** | : | |
| Application No. 11/836,704 | : | DECISION ON REQUEST FOR |
| Filed: August 9, 2007 | : | REVOCATION OF POWER |
| Attorney Docket No. **03-06D3** | : | OF ATTORNEY |

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed March 3, 2009.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **TOWNSEND TOWNSEND & CREW, LLP**
**TWO EMBARCADERO CENTER, 8TH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

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SKOKOS LAW GROUP, LLC
1100 JORIE BOULEVARD
SUITE 220
OAK BROOK, IL 60523

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of
Jeff Sommers, et al.
Application No. 11/836,738
Filed: August 9, 2007
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition, filed April 14, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

**With respect to 37 CFR 1.181**:

This application was held abandoned for failure to reply to the non-final Office action mailed July 17, 2008, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on April 2, 2009.

Petitioner asserts that the Office action dated July 17, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

**With respect to 37 CFR 1.137(b):**

In view of the granting of the petition filed under 37 CFR 1.181 the alternative petition filed under 37 CFR 1.137(b) is **dismissed as moot**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquires concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3767 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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ALEX U. WITKOWSKI
PO BOX 218
PALO ALTO, CA 94302-0218

MAILED

JUL 15 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Umberto Basso, et. al. | : | |
| Application No. 11/836,750 | : | DECISION ON PETITION |
| Filed: August 9, 2007 | : | TO WITHDRAW FROM |
| Attorney Docket No. HCR01-100/US | : | 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 June 4, 2010.

The request is **APPROVED**.

The request was signed by Alexander U. Witkowki on behalf of himself and all attorneys/agents associated with Customer Number 25185. Therefore, Alexander U. Witkowki and all the attorneys/agents associated with Customer Number 25185 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

This application file is being referred to Technology Center Art Unit 2174 for review of the response filed on June 4, 2010.

The change of correspondence address is accepted. Thus all future communications from the Office will be mailed to the address listed below until otherwise notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: H-care Srl c/o Gruppo PAT
Via S. Gaetano, 113 31044 Montebelluna (TV)
Montebelluna, **ITALY**

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 |
|---|---|---|---|
| 11/836,750 | 08/09/2007 | Umberto BASSO | HCR01-100/US |

**CONFIRMATION NO. 3753**

**POWER OF ATTORNEY NOTICE**

25185
ALEX U. WITKOWSKI
PO BOX 218
PALO ALTO, CA 94302-0218

*OC000000042467098*

Date Mailed: 07/08/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/04/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FROM DIRECTOR'S OFFICE

OCT 29 2007

TECHNOLOGY CENTER 3600

Denys Tseng
Ficode, Inc.
840 East Green Street, Unit 111
Pasadena, California 91101

In re application of
Denys Tseng
Application No. 11/836,781
Filed: August 10, 2007
For: METHOD AND SYSTEM FOR SHORTAGE DEDUCTION PROCESSING

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on August 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;
2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition in this case fails to comply with condition I.3 above.

Because the application was filed without sufficient filing/search/examination/petition fees and, at the time of filing, an oath/declaration in compliance with 37 CFR 1.63 was missing and the specification was not in compliance with 35 CFR 1.52, the application is considered to be incomplete under 37 CFR 1.51 because the application was not in condition to be acted upon at the time the application was filed, as evidenced by the "Notice to File Missing Parts of Nonprovisional Application" dated August 15, 2007.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure. Given the above failure of filing a complete application, which cannot now be remedied, the petition has not been further reviewed on the merits.

DECISION

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/JM/10/22/07

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P.O. Box 1450
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**THELEN REID BROWN RAYSMAN & STEINER LLP**
**2225 EAST BAYSHORE ROAD**
**SUITE 210**
**PALO ALTO CA 94303**

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OCT 12 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Terence Goggin et al. | : | |
| Application No. 11/836,793 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 060478.000012 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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, Mark Goggin, declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**AT & T Legal Department – WK**
**Attn: Patent Docketing**
**Room 2A-207**
**One AT & T Way**
**Bedminster, NJ 07921**

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AUG 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Thomas Anschutz | : | |
| Application No. 11/836,815 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 20009.0316US01 (060476) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jeramie J. Keys on behalf of attorney/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/836,815 | 08/10/2007 | Thomas Anschutz | 20009.0316US01(060476) |

**CONFIRMATION NO. 3862**

**POWER OF ATTORNEY NOTICE**

*OC000000037585127*

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 08/31/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MEGICA CORPORATION
SCIENCE-BASED INDUSTRIAL PARK
ROOM 301/302, NO. 47, PARK 2ND RD.
HSINCHU 30075 TW TAIWAN

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JUN 25 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mou-Shiun Lin | : | |
| Application No. 11/836,816 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. MEGA07-010US-P0625 | : | |

This is a decision on the petition under 37 CFR 1.314, filed June 18, 2009, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Office of Data Management to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

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 regarding this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this filed June 18, 2009 should be directed to the Examiner of Technology Center Art Unit 2813.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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JUN 03 2010

OFFICE OF PETITIONS

In re Application of
Radu Vasile Bojan, et al;
Application No. 11/836,817
Filed: August 10, 2007
Attorney Docket No. 2006P13800

: DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed November 25, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 5, 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 June 6, 2009 by operation of law.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner attests that the response to the non-final Office action mailed May 5, 2009 was unavoidable because the Office action was never received. A review of the record indicates that the Office action was mailed to the address of record.

While the showing of the record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition under 37 CFR 1.181 to withdraw the holding of abandonment or pursuant to 37 CFR 1.137(b) on the basis of the unintentional delay.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c), under the subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;" and 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> 'The word 'unavoidable'...is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in to their most important business. It permits them in the exercise of this care to rely on the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees and such other means instrumentalities are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly to be said to be unavoidable, all other conditions of promptness in its rectification being present."

In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Windklet v. Ladd, 221 F. supp. 550, 552, 138 USPQ 666, 167-68(D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 USPQ 977, 982 (D.C. Cir 1982.). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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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 April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**BRIAN M. DINGMAN, ESQ.**
**MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP**
**1700 WEST PARK DRIVE**
**WESTBOROUGH, MA 01581**

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SEP 11 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **Alfred ROSSINI** | : | |
| Application No. 11/836,830 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. **18235-00030** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 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 June 9, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2009. Accordingly, the date of abandonment of this application is June 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 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

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Alexandria, VA 22313-1450
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**LARSON NEWMAN & ABEL, LLP**
**5914 WEST COURTYARD DRIVE, SUITE 200**
**AUSTIN, TX 78730**

**MAILED**

JUN 14 2010

**OFFICE OF PETITIONS**

In re Application of
**Voon-Yew THEAN**, et *al.*
Application No. 11/836,844
Filed: August 10, 2007
Attorney Docket No. **SC13867TP-D1**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 11, 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 9, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Kouji Sasaki | : | |
| Application No. 11/836888 | : | |
| Filing or 371(c) Date: 00/00/0000 | : | |
| Attorney Docket Number: | : | DECISION |
| MAT-42629 | : | ON PETITION |

This is a decision on the "Petition Under §1.57(a) Incorporation by Reference," filed July 29, 2008.

The petition is **dismissed**.

## Background

Application papers in the above-identified application were deposited on August 10, 2007. However, on July 11, 2008, 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.

## Applicable Law, Rules and MPEP

Petition under 37 CFR 1.57(a)

37 CFR § 1.57, Incorporation by reference, states:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or

drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. 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.

**Analysis**

Applicant filed a Transmittal of Drawings on July 23, 2008; however, the applicable rule requires an Amendment to the application. Applicant has failed to include an Amendment to the application to include the inadvertently omitted portion of the drawings as required by 37 CFR 1.57(a)(1). Also, the petition is based upon a priority claim to Japanese Application No. 2006-220277, a certified copy of which was filed on August 13, 2007; however, no English language translation of the prior-filed application has been filed. An English language translation of the prior-filed application in accordance with 37 CFR 1.57(a)(1)(i), is required.

**Conclusion**

The petition is dismissed without prejudice. Applicant must file an Amendment to the application to include the inadvertently omitted portion of the drawings, and an English language translation of the prior-filed application.

Telephone inquiries concerning this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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JAN 29 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kouji Sasaki | : | |
| Application No. 11/836888 | : | |
| Filing or 371(c) Date: 08/10/2007 | : | |
| Attorney Docket Number: | : | DECISION |
| MAT-42629 | : | ON PETITION |

This is a decision on the "Response to Decision on Petition," filed December 11, 2008, requesting the above-identified application be accorded a filing date of August 10, 2007 based upon a priority claim in accordance with 37 CFR § 1.57(a). The response is properly treated as a renewed petition under 37 CFR 1.57(a).

The petition is **granted to the extent indicated below**.

**Background**

Application papers in the above-identified application were deposited on August 10, 2007. However, on July 11, 2008, 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 priority or benefit claim under 37 CFR 1.55 or 1.78.

The petition was dismissed in a Decision mailed October 1, 2008. The Decision dismissing the petition required an Amendment to the application to include the inadvertently omitted portion of the drawings, and an English language translation of the prior-filed application in accordance with 37 CFR 1.57(a).

**The present renewed petition**

Applicant files the present renewed petition and an Amendment to add the inadvertently omitted material, and an English language translation of the prior-filed application in accordance with 37 CFR 1.57(a)..

**Applicable Law, Rules and MPEP**

Petition under 37 CFR 1.57(a)

37 CFR § 1.57, Incorporation by reference, states:

> (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).

Priority claim under 37 CFR 1.78

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.

**Analysis**

Applicant has included a proper priority claim to Japanese Patent Application JP2006-08-11 in the Application Data Sheet filed on August 10, 2007. Therefore, based upon applicant's incorporation by reference of the contents of the Japanese Patent Application on filing of the present application, a filing date of August 10, 2007, may be accorded the present application. Applicant has filed a preliminary amendment to add the inadvertently omitted material with the present renewed petition on December 11, 2008 and an English language translation of the prior-filed application in accordance with 37 CFR 1.57(a).

**Conclusion**

This application is being referred to the Office of Patent Application Processing for further processing, with the filing date of August 10, 2007, using the application papers present on that date.

Telephone inquiries concerning this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/836,911 | 08/10/2007 | Chiou-Lin Chung | 250209-2370 | 4036 |

7590 01/27/2010
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

| EXAMINER |
|---|
| PRABHAKHER, PRITHAM DAVID |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/27/2010 | 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

Refund Ref:
01/28/2010 [illegible]

Credit Card Refund Total: $500.00

No Expires XXXXXXXXXXXX[illegible]

Adjustment date: 01/28/2010 NFARMER
08/10/2007 INTEFSW 00005909 11836911
02 FC:1111 -500.00 DP



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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Huang Tai Guang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598709 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/836,946 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUN 09 2009

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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|---|---|
| In re application of<br>Satoshi Murata et al.<br>Application No. 11/836,952<br>Filed: August 10, 2007<br>For: IN-WHEEL MOTOR AND WHEEL ASSEMBLY WITH THIS IN-WHEEL MOTOR | **DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)** |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed May 21, 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 the preliminary amendment filed May 21, 2009 with the petition, 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: 6/7/09

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SEP 04 2007

TECHNOLOGY CENTER 3600

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www.uspto.gov

David Benson
1712 E. Mallory St.
Mesa, AZ 85203

In re application of
Justin C. Riggs
Application No. 11/836,958
Filed: August 10, 2007
For: MOLDING MEMBER HAVING A PLURALITY OF FLANGES FOR ENGAGING WITH DRYWALL FINISHING

**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is a decision on the petition filed on August 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition fails to comply with conditions II.5.2, II.6.3 and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, there does not appear to be an adequate classification search. A proper classification search for this invention needs to include a search of 52/288.1 (where the application is classified); 52/254, 255, 256, 257, 287.1, 716.1, 717.03, 717.04, 717.05, 717.06; along with D25/136.

With respect to the required text search of the US Patents database, the petition does not provide any search logic. Search logic encompassing the "broadest reasonable interpretation" of the claimed invention is required. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Additionally, an example of acceptable search logic format is provided below:

((molding or trim$4) adj (member$1 or means or apparatus or device$1or assembl$4 or system$1)) and (perforat$4 or hole$1 or aperture$1) and flange$1 and (drywall or dry$wall)

The sample of search logic is not meant to be the sole search logic that can or should be employed in this application, but is meant solely as an example for applicant's assistance. Furthermore, in general, a search of foreign databases is required for a complete search. Normally, this requires at a minimum, a search of the JPO, EPO and WIPO databases. The sample search logic provided above can also apply to searching the foreign art databases.

There appears to have been no Non-Patent Literature (NPL) search outlined in the Search Document. An NPL search is required as well. The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm.
The sample search logic provided above can also apply to searching the NPL databases.

Finally, given the scope of the claimed subject matter, the finding of only a single inventors work which contains even a single limitation of even a single claim is an indication that the evaluation of the search results fails to be directed to, and encompass all of the features of, the claims, giving the claims **the broadest reasonable interpretation**, as required. For example, many of the above claims, for example, but certainly not limited to, claims 7 and 11 appear to contain limitations that are quite common and it strains credulity to assert that nowhere in the prior art are located these additional claimed limitations. It appears that the search may have been completed on the concept of the disclosed invention rather than the "claimed invention " as is required.

In order to provide an adequate search applicant is required to submit an accelerated examination support document (AESD) that includes an IDS in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims (whether in independent or dependent form). Specifically:

**(1)** Applicant **is not** required to cite the references that are only relevant to the general subject matter of the claims because there are references that are more

closely related to the subject matter of the claims. Applicant is also not required to cite a reference that is cumulative to any other reference cited in the IDS.
**(2)** Applicant **is** required to cite any reference that establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim (see 37 CFR 1.56(b)) in the IDS of the AESD.
**(3)** Applicant **is** required to cite the reference that discloses the most limitations in the independent claim.
**(4)** Applicant **is** required to cite any reference that discloses a limitation of an independent claim that is not shown in the other references.
**(5)** Applicant **is** required to cite any reference that discloses a limitation of a dependent claim that is not shown in the other references.

As to condition II.6.2, while the manner in which the applicant has provided an explanation clearly specifying whether each of the limitations (or portions thereof) are disclosed in each of the references (and the locations thereof) is technically adequate, given the above deficiencies noted in the search and search results, similar detail will be needed for any additional art uncovered.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references taken separately, which also includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation (including dependent claims) the petition needs to identify specific passages, or at least a single paragraph where each limitation provides support. Listing broadly a figure or pages of the specification for each claim limitation does not comply with what is required. Similar support (if any) for the claimed invention must additionally be shown in the provisional application upon which priority is claimed under 35 USC 119. Specifically, for provisional application 60/836,755, a listing of where the limitations of the claims find support is necessary.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 9/2/07

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**DAVID BENSON**
**1712 E. MALLORY ST.**
**MESA, AZ 85203**

MAILED

FEB 02 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Justin C. RIGGS | : | |
| Application No. 11/836,958 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. RIG-001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 12, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 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 an election; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received December 11, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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**DAVID BENSON**
**1712 E. MALLORY ST.**
**MESA AZ 85203**

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|---|---|---|
| In re Application of | : | |
| Justin C. RIGGS | : | |
| Application No. 11/836,958 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. RIG-001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received December 11, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/836,985 | 08/10/2007 | Nam-Gi KIM | 0201-0071 | 4139 |

7590 01/25/2010
Jefferson IP Law, LLP
1130 Connecticut Ave., NW
Suite 420
Washington, DC 20036

| EXAMINER |
|---|
| BOST, DWAYNE D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/25/2010 | 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

[illegible]

Credit Card Refund Total: [illegible]

Adjustment date: 01/25/2010 NFASHER
[illegible] INTERN [illegible]
02 FC:1111 [illegible]



FORM PET651G (Rev. 08/07)

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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Hidetoshi FUJII | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7642695 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/836,990 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Shozo KOBAYASHI | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598660 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/837,000 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**P.O. BOX 1022**
**MINNEAPOLIS MN 55440-1022**

| | | |
|---|---|---|
| In re Application of | : | DECISION |
| David H. Shen et al. | : | AMENDING INVENTORSHIP |
| Application No. 11/837,042 | : | |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 18085-010001 | : | |

This is a decision on the petition filed June 23, 2009, which is being treated under 37 CFR § 1.183 and 1.48(a) to waive the statement requirement of 37 CFR 1.48(a)(2)&(3), a statement from the person being added as an inventor and re-executed declaration.

The petition under 37 CFR 1.183 is **DISMISSED**.

The petition under 37 CFR 1.48(a) is **DISMISSED.**

As to the petition under 37 CFR 1.183:

Petitioner has not provided an acceptable showing that the inventor to be added, Douglas Sudjian, refuses to sign a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part as required under 37 CFR 1.48(a)(2). The petition indicates many attempts to have Sudjian sign papers including the oath or declaration but it appears none of these attempts included the required statement of no deceptive intention for Sudjian's signature as required by 37 CFR 1.48(a)(2). For this reason, the petition cannot be granted.

As to the petition under 37 CFR 1.48(a):

A grantable petition under 37 CFR 1.48(a) must be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by §

1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The instant petition lacks items (2) and (5). Office records show the above identified application is assigned to Nanoamp Mobile, Inc. The petition did not include the written consent of the assignee. As noted above, petitioner has not provided an acceptable request to waive the requirements of 37 CFR 1.48(a)(2).

Telephone inquiries regarding this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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**P.O. BOX 1022**
**MINNEAPOLIS MN 55440-1022**

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| In re Application of | : | DECISION |
| David H. Shen et al. | : | AMENDING INVENTORSHIP |
| Application No. 11/837,042 | : | |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 18085-010001 | : | |

This is a decision on the renewed petition filed December 18, 2009, which is being treated under 37 CFR § 1.183 and 1.48(a) to waive the statement requirement of 37 CFR 1.48(a)(2)&(3), a statement from the person being added as an inventor and re-executed declaration.

The petitions are **GRANTED.**

Petitioner has shown that the non-signing inventor, Douglas Sudjian, has refused to sign the required statement that, as the added inventor, the error in naming him as a co-inventor occurred without deceptive intention on his part for the above-identified application and has refused to sign the new declaration listing him as a co-inventor. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(2)&(3).

In view of the papers filed December 18, 2009, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a).

The inventorship has been changed by the addition of Douglas Sudjian.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed.

This application is being referred to the Office of Data Management for further processing as a patent.

Telephone inquiries regarding this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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 |
|---|---|---|---|---|---|---|
| 11/837,042 | 08/10/2007 | 2817 | 2552 | 18085-010001 | 31 | 4 |

**CONFIRMATION NO. 4252**

**CORRECTED FILING RECEIPT**

26171
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

*OC000000039338131*

Date Mailed: 12/23/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

David H. Shen, Saratoga, CA;
Ann P. Shen, Saratoga, CA;
Douglas Sudjian, Saratoga, CA;

**Assignment For Published Patent Application**

NANOAMP SOLUTIONS, INC. (CAYMAN), Sunnyvale, CA

**Power of Attorney:**
John Phillips--35322
Kevin Greene--46031
Dwight Thompson--53688

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/837,042**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

CRYSTAL OSCILLATOR FREQUENCY TUNING CIRCUIT

**Preliminary Class**

331

## 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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MAR 1 2 2008

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY & POPEO, P.C.
9255 TOWNE CENTER DRIVE
SUITE 600
SAN DIEGO CA 92121

| | | |
|---|---|---|
| In re Application of | : | |
| Rath | : | |
| Application No. 10/837,044 | : | DECISION |
| Filed: 30 April, 2004 | : | |
| Attorney Docket No. 34874-100 UTIL | : | |

This is a decision on the renewed petition filed on 4 January, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 21 March, 2007, with reply due absent extension of time on or before 21 June, 2007;
- the application went abandoned after midnight 21 June, 2007;
- the Office mailed the Notice of Abandonment on 18 October, 2007;
- on 25 October, 2007, Petitioner filed the instant petition with, *inter alia*, a request for continued examination and fee, with a submission under 37 C.F.R. §1.114 in the form of an amendment, and an averment of non-receipt of the Office action in question, however, Petitioner failed to satisfy the showing as described in the guidance in the Commentary at MPEP §711.03 ( c), as to the documents in support of/and the statements of search required for the showing , and so the petition was dismissed on 10 December, 2007;

- the instant petition seeks to overcome these deficiencies and states the search of the appropriate files and the process of Petitioner's office in that a docket sheet is not generated for a file until/unless an Office action is received to prompt a change in the database of Petitioner's office, and Petitioner submitted due-date docket sheets with the instant petition that evidence non-receipt of the Office action in that no reply to a final rejection was due in the instant file or mistakenly placed in another file—and, as noted above, Petitioner previously filed a reply to the outstanding Office action.

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

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).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

## CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**.

The instant application is released to Technology Center/AU 2168 for further processing in due course.

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[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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[8]) 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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[8] 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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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

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SEP 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,511,069 | : | |
| Issue Date: March 31, 2009 | : | |
| Application No. 11/837,054 | : | ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 8096-1002-1 | : | |

This is a decision on the petition filed July 10, 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 was accompanied by a certificate of correction, the processing fee and the certificate of correction fee as required by 3.81(b). Further, Office assignment records confirm that the assignee of record at the time of issuance is ASHI KASEI PHARMA CORPORATION. Accordingly, the request complies with the provisions of 37 CFR 3.81(b), and it would be appropriate for a certificate of correction to be processed to correct the name of the assignee on the front page of the patent.

The request is **GRANTED** to the extent indicated. The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b).

**The application is being referred to the Certificate of Correction Branch for further consideration of the other corrections requested in the Certificate of Correction filed July 10, 2009.**

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
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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**ORRICK, HERRINGTON & SUTCLIFFE, LLP**
**IP PROSECUTION DEPARTMENT**
**4 PARK PLAZA, SUITE 1600**
**IRVINE, CA 92614-2558**

**COPY MAILED**

SEP 2 4 2007

**OFFICE OF PETITIONS**

In re Application of

**SUBNICK**, Howard D.
Application No. 11/837,065
Filed: August 10, 2007
Attorney Docket No. **17503.4002**

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 declaration of inventor Howard D. Subnick, 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 2856 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, LLP**
**1940 DUKE STREET**
**ALEXANDRIA VA 22314**

COPY MAILED
JAN 29 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Hirofumi Kan et al | : | |
| Application No. 11/837,071 | : | DECISION GRANTING PETITION |
| Filed: August 10, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 313034USOSCONT | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 28, 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 December 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1795 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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DIW Apr-10

MARTIN J. MORAN
EATON ELECTRICAL, INC.
TECHNOLOGY & QUALITY CENTER
170 INDUSTRY DRIVE, RIDC PARK WEST
PITTSBURGH PA 15275-1032

MAILED
APR 13 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Das et al. | : | |
| Application Number: 11/837072 | : | ON PETITION |
| Filing Date: 08/10/2007 | : | |
| Attorney Docket Number: 04-mEDP-305 | : | |

This is a decision on the petition under 37 CFR 1.137(b) filed on February 5, 2010.

The petition is **GRANTED**.

This application became abandoned on September 10, 2009, for failure to timely respond to the non-final Office action mailed on June 9, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 16, 2009.

Receipt of the amendment filed on February 5, 2010, is acknowledged.

The change of correspondence address filed on December 14, 2009 cannot be accepted because it is unsigned. A change of correspondence address must be signed by all of the applicants or inventors, an assignee of record of the entire interest (accompanied by the Statement Under 37 CFR 3.73(b)), or an attorney or agent of record.

The address in the petition is different from the correspondence address. 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. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is forwarded to Technology Center Art Unit 2471 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

KIRK D. HOUSER
600 GRANT ST, 44TH FLOOR
PITTSBURGH PA 15219

# 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. |
|---|---|---|---|---|
| 11/837,072 | 08/10/2007 | SUJIT R. DAS | 04-mEDP-305 | 4313 |

7590 05/10/2010
Eaton Corporation
1000 Cherrington Parkway
Moon Township, PA 15108

| EXAMINER |
|---|
| LOPATA, ROBERT J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2471 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/10/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARTIN J. MORAN Address Changed
EATON ELECTRICAL, INC. 4/16/10
TECHNOLOGY & QUALITY CENTER
170 INDUSTRY DRIVE, RIDC PARK WEST
PITTSBURGH PA 15275-1032

MAILED
APR 13 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Das et al. | : | |
| Application Number: 11/837072 | : | ON PETITION |
| Filing Date: 08/10/2007 | : | |
| Attorney Docket Number: 04-mEDP-305 | : | |

This is a decision on the petition under 37 CFR 1.137(b) filed on February 5, 2010.

The petition is **GRANTED**.

This application became abandoned on September 10, 2009, for failure to timely respond to the non-final Office action mailed on June 9, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 16, 2009.

Receipt of the amendment filed on February 5, 2010, is acknowledged.

The change of correspondence address filed on December 14, 2009 cannot be accepted because it is unsigned. A change of correspondence address must be signed by all of the applicants or inventors, an assignee of record of the entire interest (accompanied by the Statement Under 37 CFR 3.73(b)), or an attorney or agent of record.

The address in the petition is different from the correspondence address. 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. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is forwarded to Technology Center Art Unit 2471 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

KIRK D. HOUSER
600 GRANT ST, 44TH FLOOR
PITTSBURGH PA 15219

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**MYERS BIGEL SIBLEY & SAJOVEC**
**PO BOX 37428**
**RALEIGH NC 27627**

MAILED

JAN 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Du et al. | : | |
| Application No. 11/837,079 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 5470-461 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 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 May 29, 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 August 30, 2008. A Notice of Abandonment was mailed December 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate 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 Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUMAN GENOME SCIENCES, INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD. 20850

COPY MAILED
JAN 07 2009

Applicant: Guo-Liang Yu
Appl. No.: 11/837,082
Filing Date: August 10, 2007
Title: TUMOR NECROSIS FACTOR GAMMA
Attorney Docket No.: PF14P8C1
Pub. No.: 2007/0297977 A1
Pub. Date: December 27, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 21, 2008 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the material error of the sequence listing is missing from the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The patent application publication was published without the sequence listing. Note that this is not a material mistake because the application is a continuation of 10/226,294 published as U.S. Patent Application Publication U.S. 2003/0129189 A1, which includes the sequence listing. Since the parent application is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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[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 No. 11/837,082

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.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark O. Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

4-21-09

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,442,359
Ser. No. : 11/837,111
Inventor(s) : Johannes Wouterus, et. al.
Issued : October 28, 2008

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Caroline J. Roush
Banner & Witcoff, LTD.
28 State St., 28th Floor
Boston, MA 02109

ej

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. |
|---|---|---|---|---|
| 11/837,125 | 08/10/2007 | Hiroshi KUBOTA | 313430US2 | 4403 |

7590 02/24/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| NGUYEN, HOA T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/24/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 02/23/2009 BPOWELL
08/13/2007 INTEFSW 00000514 11837125
02 FC:1111 -500.00 OP

Refund Ref:
02/23/2009 0030066941

Credit Card Refund Total: $500.00

Ag Exp..: XXXXXXXXXXX1001



FORM PET651G (Rev. 08/07)

Adjustment date: 02/23/2009 BPOWELL
08713/2097 INTEFSW 00000514 11837125
02 FC:1111 -500.00 OP

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**SLATER & MATSIL, L.L.P.**
**17950 PRESTON ROAD**
**SUITE 1000**
**DALLAS, TX 75252**

MAILED

JUL 22 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Oreste Bernardi | : | DECISION ON PETITION |
| Application No. 11/837,171 | : | TO WITHDRAW |
| Filed: August 10, 2007 | : | FROM RECORD |
| Attorney Docket: QM000036 | : | |

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 17, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Slater & Matsil LLP were revoked as power of attorney by the assignee of the patent application on June 23, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOHN S. ECONOMOU
202 MAMARONECK AVE., THIRD FLOOR
WHITE PLAINS NY 10601

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRANK MARINO
SHEEHAN PHINNEY BASS + GREEN PA
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PO BOX 3701
MANCHESTER NH 03105-3701

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JAN 05 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cote, et al. | : | |
| Application No. 11/837,231 | : | ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 18464-6100 | : | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 9, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to timely file a reply to the Notice to File Correct Application Papers, mailed April 10, 2008. This Notice set an extendable period for reply of two (2) months to submit replacement drawings. No reply having been received, the application became abandoned on June 11, 2008. The Office mailed a Notice of Abandonment on November 19, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of November 10, 2008 (the last date a reply could have been filed with the maximum five month extension). An entry for the instant application is absent, supporting the conclusion that the April 10, 2008 Notice was not received. Petitioner has explained that no docket report was submitted for the period from June 10, 2008 to June 11, 2008, as petitioner's docket indicated that there were no records on that day.

The application is being forwarded to the Office of Initial Patent Examination for re-mailing of the April 10, 2008 Notice to File Corrected Application Papers, setting a new period for response.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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**MIN (AMY) S. XU**
**DORSEY & WHITNEY LLP**
**SUITE 1500**
**50 SOUTH SIXTH STREET**
**MINNEAPOLIS MN 55402-1498**

**COPY MAILED**

MAY 26 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jeanneret et al. | : | DECISION ON PETITION |
| Application No. 11/837,247 | : | TO WITHDRAW |
| Filed: August 10, 2007 | : | FROM RECORD |
| Attorney Docket No. 11643/US/2 | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 1, 2008.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on December 1, 2008 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. 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.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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**MIN (AMY) S. XU**
**DORSEY & WHITNEY LLP**
**SUITE 1500**
**50 SOUTH SIXTH STREET**
**MINNEAPOLIS MN 55402-1498**

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JUL 24 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jeanneret et al. | : | DECISION ON PETITION |
| Application No. 11/837,247 | : | TO WITHDRAW |
| Filed: August 10, 2007 | : | FROM RECORD |
| Attorney Docket No. 11643/US/2 | : | |

This is a decision on the renewed request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 11, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

According to a review of current USPTO records petitioner has not recognized a proper recorded assignee concerning the above-identified application or the first listed inventor. Petitioner has submitted the customer number 52082 which is not the recognized assignee in the above-identified application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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SEP 02 2008

In re Application of

Delima, et al.

Application No. 11/837,266

Filed: August 10, 2007

Attorney Docket No. RSW920010098US2

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on August 13, 2008.

The petition is **granted**.

This application was held abandoned on December 12, 2007, after no reply was received to the Notice of Omitted Items in Non-Provisional Application mailed October 12, 2007. The notice set forth a period for reply of two months from its mailing date. A Notice of Abandonment was mailed on June 16, 2008. The instant petition was filed on August 13, 2008. Petitioner maintains that the notice of October 12, 2007, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to the Office of Patent Application Processing for further review. Using its discretion, the Office of Patent Application Processing may either accept the response filed August 13, 2008, or reset the time period for reply to the Notice to Omitted Items in Non-Provisional Application File that was mailed on October 12, 2007.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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**BUSKOP LAW GROUP, P.C.**
**4511 Dacoma Street**
**HOUSTON TX 77092**

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AUG 2 3 2007

**OFFICE OF PETITIONS**

In re Application of :
**RODKEY**, et al. :
Application No. 11/837,285 :
Filed: August 10, 2007 :
Attorney Docket No. **1411.017** :

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 August 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 the driver's license of inventor Ronald F. Ramsey, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when the pre-examination processing is complete.

Monica A. Graves
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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JACKSON WALKER L.L.P.
ATTN: INTELLECTUAL PROPERTY DEPARTMENT
100 CONGRESS AVENUE
SUITE 1100
AUSTIN, TX 78701

Mail Date: 05/06/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas Edward Pitonyak | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621341 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/837,288 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**BUSKOP LAW GROUP, P.C.**
**4511 DACOMA STREET**
**HOUSTON TX 77092**

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AUG 2 2 2007

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| | | |
|---|---|---|
| In re Application of | : | |
| Rodkey et al. | : | |
| Application No. 11/837,299 | : | ON PETITION |
| Filed: August 10, 2007 | : | |
| Attorney Docket No. 1411.018 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 copy of the applicant's driver's license. 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 1745 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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**TOWNSEND AND TOWNSEND AND CREW, LLP**
**TWO EMBARCADERO CENTER**
**EIGHTH FLOOR**
**SAN FRANCISCO CA 94111-3834**

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SEP 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **STEPHAN,** Dietrich A. et al. | : | |
| Application No. 11/837,326 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **026632-000120US** | : | FROM RECORD |
| | : | |

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 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Annette S. Parent on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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 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: **DIETRICH A. STEPHAN**
**359 EAST VERDE LANE**
**PHOENIX, AZ 85012**

cc: **FOLEY & LARDNER LLP**
**111 HUNTINGTON AVENUE**
**26TH FLOOR**
**BOSTON, MA 02199-7610**

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SEP 29 2009

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**LATHROP & CLARK LLP**
**740 REGENT STREET SUITE 400**
**P.O. BOX 1507**
**MADISON, WI 53701-1507**

| | | |
|---|---|---|
| In re Application of | : | |
| **Rodney A. KRAUTH** | : | |
| Application No. 11/837,360 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. **KRAUROD-3** | : | |

This is a decision on the petition, filed February 10, 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 August 11, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 31, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center Art Unit 3724 for examination in due course.

Brian W. Brown
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/837,360 | 08/10/2007 | Rodney A. Krauth | KRAUROD-3 |

**CONFIRMATION NO. 4860**

20455
LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON, WI 537011507

**NONPUBLICATION RESCISSION LETTER**

*OC000000037978969*

Date Mailed: 09/25/2009

## 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 12/31/2009.

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".

/magraves/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CST

8-30-07

| | | |
|---|---|---|
| In re application of<br>Melvin Leroy Levinson<br>Serial No. 11/837,384<br>Filed: August 10, 2007<br>For: HIGH POWER MICROWAVE<br>WASTE MANAGEMENT | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO MAKE SPECIAL |

This is a decision on the petition filed on August 10, 2007 to make the above-identified application special under the accelerated examination program.

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 "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);
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 it was not complete and in condition for examination, at the time of filing. Specifically, MPEP 708.02(a), section VIII, C3, requires that the application must include an executed oath or declaration in compliance with 37 CFR 1.63. Note the

Application No. 11/837,384

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed on August 15, 2007, which indicates that the oath or declaration was missing at the time of filing.

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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Steve Simon et al. | : | |
| Application No. 11/837,405 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 20434-005001 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed July 16, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph Valentino or any attorneys associated with Customer Number 26211 does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

The Office will only accept 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 statement or, the most current address of the first named inventor.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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**OFFICE OF PETITIONS**

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| Steve Simon et al. | : | |
| Application No. 11/837,405 | : | DECISION ON PETITION |
| Filed: August 10, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 20434-005001 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed September 3, 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.

Our record indicates that the assignee listed in the request has not establish ownership in the above application. Therefore, the request still does not meet the requirements and cannot be approved at this time.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Steve Simon et al.<br>Application No. 11/837,405<br>Filed: August 10, 2007<br>Attorney Docket No. 20434-005001 | DECISION ON PETITION<br>TO WITHDRAW<br>FROM RECORD |

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed October 19, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40(c).

The request was signed by Samuel Borodach on behalf of all attorneys of record who are associated with the above mention application.

All attorneys/agents associated with the above mention application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Steve Simon at the address list listed in the request.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Steve Simon
150 Clove Rd., 11th Floor
Little Falls, NJ 07424

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/837,405 | 08/10/2007 | Steve Simon | 20434-005001 |

**CONFIRMATION NO. 4935**

**POWER OF ATTORNEY NOTICE**

26211
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

*OC000000038829888*

Date Mailed: 11/18/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/19/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/837,420 | 08/10/2007 | Ulrich Englert | SCHI/0003 | 4958 |

| EXAMINER |
|---|
| |

7590 06/24/2008
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

| ART UNIT | PAPER NUMBER |
|---|---|
| 3742 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/24/2008 | 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.

Patent Publication Branch
Office of Data Management



FORM PET650D (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/837,420 | 08/10/2007 | Ulrich Englert | SCHI/0003 | 4958 |

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3742 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/24/2008 | PAPER |

7590 06/24/2008
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kaletus King
Patent Publication Branch
Office of Data Management

Adjustment date: 06/24/2008 KKING1
10/23/2007 INTEFSW 00001504 200782 11837420
02 FC:1111 510.00 CR



FORM PET651G (Rev. 08/07)

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LOWE, HAUPTMAN, HAM & BERNER, LLP (ITW)
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Federico CABRELE | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7682116 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/837,433 | : OF WYETH |
| **Filed** | : 08/10/2007 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 15 2009

**OFFICE OF PETITIONS**

Casimir Jones, S.C.
440 Science Drive
Suite 203
Madison WI 53711

| | | |
|---|---|---|
| In re Application of | : | |
| Ma et al. | : | |
| Application No. 11/837468 | : | DECISION |
| Filing or 371(c) Date: 08/10/2007 | : | ON PETITION |
| Attorney Docket Number: | : | |
| FORS-14637 | : | |

This is a decision on the "Request for Corrected Filing Receipt and Petition Under 37 CFR 1.10," filed April 20, 2009. The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed as inappropriate**.

Petitioner files the present petition and requests correction of the filing date of the above-captioned application and requests a Corrected Filing Receipt. Petitioner states that [t]he Filing Receipt dated April 9, 2009 *incorrectly* indicates the parent application 08/756,386 was filed 11/26/1996. However, the application was filed by United States Post Office Express Mail on **November 29, 1996** (correct)." Applicant filed a copy of a request for certificate of correction to correct the filing date of parent application 08/756,386 to November 29, 2006.

Applicable Law, Rules and/or MPEP

37 CFR 1.4(b), states:

> 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.

Analysis

A review of Office records reveal that a Request for Correction of Filing Receipt," was filed July 24, 2008 in application number 08/756386 (patent no. 5,985,557). The petition requested that this Office correct the filing date of the issued patent from November 26, 1996, to November 29, 1996. The petition was dismissed in a Decision mailed June 3, 2009.

The present petition, while requesting correction of the filing date of the above-captioned application, in fact also requests correction of the filing date of application number 08/756386 (patent no. 5,985,557), as noted on the request for certificate of correction filed with the petition.

As noted *supra*, each file must be complete in itself. In this instance the present petition requests relief in the form of correction of the filing date of application number 08/756386 (patent no. 5,985,557), an issue that was decided in the Decision on petition mailed in application number 08/756386 (patent no. 5,985,557), on June 3, 2009.

Conclusion

In view of the foregoing, the present petition is dismissed as inappropriate.

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

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

## Application Information

| | | | | | |
|---|---|---|---|---|---|
| Application Number | 11837481 | Confirmation Number | 5098 | Filing Date | 2007-08-10 |
| Attorney Docket Number (optional) | | Art Unit | | Examiner | |
| First Named Inventor | Mario Rabinowitz | | | | |
| Title of Invention | Control Grid for Solar Energy Concentrators and Similar Equipment | | | | |

**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 |
|---|---|---|---|
| Mario | | Rabinowitz | |

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 | /Mario Rabinowitz/ | Date (YYYY-MM-DD) | 2008-05-16 |
| Name | Mario Rabinowitz Age 71, born 1936-10-24 | | |

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
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.

# 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

In re Application of
Mario Rabinowitz

Application No. 11837481

Filed: August 10,2007

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 16-MAY-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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HOLLIS-EDEN PHARMACEUTICALS, INC.
4435 EASTGATE MALL
SUITE 400
SAN DIEGO, CA 92121

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**OFFICE OF PETITIONS**

In re Application of

Henry A. LARDY, et al
Application No. 11/837,508
Filed: August 11, 2007
Attorney Docket No. 302.1C

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 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's driver license. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred back to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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|---|---|---|
| In re application of<br>Nelson Wong<br>Serial No. 11/837,541<br>Filed: August 20, 2007<br>For: COVERING FOR COMPOST | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO MAKE SPECIAL |

This is a decision on the petition filed on August 12, 2007 to make the above-identified application special.

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.

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 it was incomplete as filed as evidenced by the Notice of Incomplete Nonprovisional Application mailed August 15, 2007 and the Notice to File Missing Parts of Nonprovisional Application mailed September 6, 2007.

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 Gregory Mills, Quality Assurance Specialist, at (571) 272-1439.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

Nelson G. Wong
2205 Watervale Rd.
Fallston MD 21047

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MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH
9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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| | | |
|---|---|---|
| In re Application of | : | |
| Dulgonov, et al. | : | |
| Application No. 11/837,544 | : | ON PETITION |
| Filed: 13 August, 2007 | : | |
| Attorney Docket No. 4001333.0007 | : | |

This is a decision on the petition filed on 22 January, 2008, under 37 C.F.R. §1.47(a).

For the reasons discussed above and set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47."

Petitioner's attention is drawn to the concerns that no petition has been filed (only a declaration by a paralegal—who is not registered to practice before the Office) with only some attachments and an insufficient showing that the entire application (description, claims, abstract and drawings) was presented to the non-signing inventor; with an averment of refusal but said averment having taken place before an attempt to present the entire application to the non-

signing inventor—and almost no showing has been made to satisfy the requirements of regulatory requirements (see, also: the guidance in the Commentary at MPEP §409 et seq.).

## BACKGROUND

The record indicates:

- the instant application was filed on 13 August, 2007, without, *inter alia*, a fully executed oath/declaration;
- on 22 August, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;
- on 22 January, 2007, Ms. Marilyn Bitton who identifies herself as a senior paralegal of the averred assignee and does not appear to be a registered practitioner filed, *inter alia*, an oath/declaration signed by co-inventor Dulganov for himself and on behalf of non-signing inventor Rami Koren (Mr. Koren), but no petition, although there is a statement of last known address of the non-signing inventor, however, Petitioner provides none of the showings as to the diligent effort to present a copy of the entire application (description, claims, abstract and drawings), but only an oath/declaration (and possible assignment) as required under law, regulation and the guidance of the Manual of Patent Examining Procedure; no copy has been provided of the transmittal letter evidencing transmittal of the entire application, and almost no showing has been made to satisfy the requirements of regulatory requirements (see, also: the guidance in the Commentary at MPEP §409 et seq.).

If this matter is to be readdressed, that function must take place under the auspices of a registered practitioner.

That registered practitioner as Petitioner is respectfully requested to make a showing as to the diligence employed to ascertain the mailing addresses of the non-signing inventors, and, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements, and to provide a copy of the transmittal letter by which the entire application is sent to the non-signing inventor .

Petitioner is reminded that Email transmission generally is considered insufficient in the absence of affirmative evidence (i.e., reply) of receipt and ability to read the application in whatever form (e.g., *.doc, *.pdf) transmitted. Petitioner is reminded that these are due process requirements.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation) since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

## ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

(See, also: 37 C.F.R. §1.63.)

Further, when one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

**Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent**

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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.

**application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.**

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. (The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3])

***Petitioner's attention is directed to the discussion in the NOTES, BACKGROUND and ANALYSIS, above, and Petitioner should ensure that the deficiencies addressed there are corrected with any future petition herein***, to include (but not necessarily be limited to) the requirements that a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to, and evidencing reasonable diligence in ascertaining a reasonably believed last known/current address for the non-signing inventor, all as required by law.

## CONCLUSION

Therefore, the instant petition hereby is **dismissed**, and Petitioner is respectfully requested to make a showing as to the diligence employed to ascertain the mailing addresses of the non-signing inventors, and, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements in any future petition herein under 37 C.F.R. §1.47.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[3] See: MPEP 409.03(b).

Application No. 11/837,544

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.23) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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3 The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

JIANQ CHYUN
INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

| | | |
|---|---|---|
| In re Application of | : | |
| Shyur, et al. | : | |
| Application No. 11/837,548 | : | DECISION |
| Filed: 13 August, 2007 | : | |
| Attorney Docket No. 21101-US-PA | : | |

This is a decision on the papers considered as a petition filed on 12 September, 2007, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

**NOTE:**

Petitioner placed at the end of her petition an instruction as to a correspondence address. While the address as therein set forth appears to be the same as that above, out of an abundance of caution a copy of this decision also is directed to that address. However, Petitioner is cautioned and reminded—and as one registered to practice before the Office Petitioner most certainly already is aware—that any change or alteration of address must be of a separate paper as a Notice to the Office, and that in the absence of such separate Notice, no change will be made to the address of record.

## BACKGROUND

The record indicates:

- the instant application was filed on 13 August, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 22 August, 2007 the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 12 September, 2007, and Petitioner Belinda Lee (Reg. No. 46,863), filed, *inter alia*, the petition with an oath/declaration signed by co-inventors Wei-Huan Chou, Jian-Ming Peng and Kai-Chen Tien on behalf of themselves and non-signing co-inventor Jui-Chun Shyur and Petitioner's statement and that of Chen Yu-Yin, administrator for the assignee, as to and correspondence evidencing the procedure followed and express statements and documents for a showing that that the entire application (description, claims, abstract and drawings) were transmitted to the non-signing inventor Jui-Chun Shyur (noted as an enclosure with the letter of 1 August, 2007) as required by statute, regulation and practice of the Office, and that the non-signing inventor has failed to join in the oath/declaration, with other showings consistent with the guidance in the Commentary at MPEP §409, et seq.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation) since all owe to the Office the continuing duty to disclose.[1]
Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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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.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
JIANQ CHYUN
INTELLECTUAL PROPERTY OFFICE
7F.-1, No. 100, ROOSEVELT ROAD,
SECTION 2, TAIPEI 100 TW
TAIWAN, ROC

[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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JJGJr : 12-07

JUI-CHUN SHYUR
10F.-3, NO. 65, SEC. 2, FUSING S. RD.
DA-AN DISTRICT
TAIPEI CITY 106
TAIWAN
R.O.C.

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| In re Application of | : | |
| Shyur, et al. | : | |
| Application No. 11/837,548 | : | COMMUNICATION |
| Filed: 13 August, 2007 | : | |
| Attorney Docket No. 21101-US-PA | : | |

Dear Jui-Chun Shyur:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] Rules of Practice

[1] The regulations at 37 C.F.R. §1.47 provide:

**§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
JIANQ CHYUN
INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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[2] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
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**3310 KATY FREEWAY, SUITE 100**
**HOUSTON TX 77007**

| | | |
|---|---|---|
| In re Application of | : | |
| Earl Litman | : | |
| Application No. 11/837,592 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1656.008 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a 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 3622 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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**WHYTE HIRSCHBOECK DUDEK S.C.**
**555 EAST WELLS STREET, SUITE 1900**
**MILWAUKEE, WI 53202**

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OFFICE OF PETITIONS

In re Application of :
**LIN**, Feng :
Application No. 11/837,631 : DECISION GRANTING PETITION
Filed: August 13, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MTI-31271-C-A** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 January 2, 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 Monica A. Graves 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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**OFFICE OF PETITIONS**

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

| | | |
|---|---|---|
| In re Patent No. 7,540,812 | : | |
| Issue Date: June 2, 2009 | : | |
| Application No. 11/837,642 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. Q103291 | : | |

This is a decision on the petition under 37 CFR 1.183, filed June 26, 2009.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a) is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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. |
|---|---|---|---|---|
| 11/837,661 | 08/13/2007 | Saya SATOU | 071878 | 5451 |

7590 12/17/2008
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

| EXAMINER |
|---|
| KINGAN, TIMOTHY G |

| ART UNIT | PAPER NUMBER |
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| 1797 | |

| MAIL DATE | DELIVERY MODE |
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| 12/17/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
12/17/2008 0030064681

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1053

Adjustment date: 12/17/2008 NFARMER
08/13/2007 INTEFSW 00006096 11837661
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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Steven A. Anderson | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7660494 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/837,717 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**GIBBONS P.C.**
**One Gateway Center**
**Newark, NJ 07102**

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SEP 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bruce Martin | : | |
| Application No. 11/837,755 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 6245-03 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Gibbons P.C. revoked by the assignee of the patent application on May 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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 Johnson
Petitions Examiner
Office of Petitions

cc: **BEYERS COSTIN, P.C.**
**Post Office Box 878**
**Santa Rose, CA 95402-0878**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**SCHMEISER, OLSEN & WATTS**
**22 CENTURY HILL DRIVE**
**SUITE 302**
**LATHAM NY 12110**

COPY MAILED
JAN 09 2009

| | | |
|---|---|---|
| In re Application of | : | |
| Dunham et al. | : | |
| Application No. 11/837,768 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. END920000036US5 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 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 November 18, 2008, as required by the Notice of Allowance and Fee(s) Due mailed August 18, 2008. Accordingly, the date of abandonment of this application is November 19, 2008. A Notice of Abandonment was mailed December 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Lynne D. Anderson
333 John Carlyle Street, Suite 635
Alexandria VA 22314

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/29/10

Paper No.: —

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/837780 Patent No.: 7673669 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**Randolph Square – 9D10-A**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
571-272-0460

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

Jessica Ward 1793

SPE 1793

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

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NOV 19 2009

**OFFICE OF PETITIONS**

**STERNE KESSLER GOLDSTEIN & FOX P.L.L.C.**
**1100 NEW YORK AVENUE N.W.**
**WASHINGTON, DC 20005**

| | | |
|---|---|---|
| In re Application of | : | |
| **Subba Reddy PALLI** | : | |
| Application No. 11/837,834 | : | NOTICE UNDER 37 CFR 1.28(c) |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. **A9697** | : | |

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 the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/837,913 | 08/13/2007 | Yasuhiro KOJIMA | 313069US26 | 5843 |

7590 05/15/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| CHAN, KO HUNG |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3632 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/15/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 05/13/2009 BPOWELL
08/14/2007 INTEFSW 00001741 11837913
02 FC:1111 -500.00 OP

Adjustment date: 05/13/2009 BPOWELL
08/14/2007 INTEFSW 00001741 11837913
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

Refund Ref:
05/13/2009 0030070054

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Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1000

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FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO IL 60607

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
O'Shea : ON PETITION
Application No. 11/837,923 :
Receipt Date: August 13, 2007 :
Docket No.: OLY-071166 :

This is a decision on the petition filed August 29, 2007, wherein petitioner requests the above-identified application be accorded a filing date of August 13, 2007 with seven sheets of drawings as part of the original application as submitted.

The petition is **DISMISSED**.

The application was received electronically by the USPTO on August 13, 2007. On August 24, 2007, a Notice of Incomplete Nonprovisional Application ("Notice") was mailed indicating that the application had not been accorded a filing date because the application had been submitted without drawings as required per 35 USC 113.

The Notice advised as follows: the filing date of the application would be the date of receipt of the omitted drawings, unless otherwise indicated. Any assertions that the drawings 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.

The Notice further advised as follows: if the 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.

Petitioner argues that the application as submitted included drawings. Petitioner has submitted a copy of the seven sheets of drawings. Petitioner has also submitted as proof of receipt of drawings a copy of an Electronic Acknowledgement Receipt.

The arguments and evidence submitted by petitioner have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Electronic Acknowledgement Receipt references two pages where drawings should have been. Two pages were actually received. The pages, however, did not contain any drawings. The first page was actually blank. The second page contained the following error message:

> ERROR: undefinedresource
> OFFENDING COMMAND: findresource
> STACK:
> /DefaultColorRendering
> /ColorRendering
> /DefaultColorRendering

However, no actual drawing figures were received.

The Acknowledgement Receipt will serve to establish that the resubmitted documents were exactly those submitted on the date of receipt. Petitioner has submitted a copy of seven drawing sheets. The Acknowledgement receipt, however, indicates that two pages were received where drawings should have been. Those two pages, as previously stated, did not contain any drawing figures.

The Acknowledgement Receipt is of no value should an applicant submit the wrong data files under EFS, just as a post card receipt has no value should an applicant submit a wrong application in paper filings. Applicants are responsible for ensuring that a filing contains the correct, intended application files.

The request for refund of the petition fee is also dismissed as petitioner has failed to establish that seven sheets containing drawing figures were actually received on the filing date request.

The application is entitled to a filing date of August 29, 2007, the date the drawings were received. However, petitioner has not expressly requested a later filing date.

Petitioner must take action to avoid termination of proceedings within the time period set forth below.

Any petition for reconsideration must either: establish that seven sheets containing drawing figures were received on the requested filing date; petition for a later filing date; or make a persuasive argument that the application is entitled to the requested filing date because the drawings are not necessary for an understanding of the invention and be accompanied by an preliminary amendment canceling reference to the drawings (*see, generally*, MPEP 601.01).

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

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) 272-3205

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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JAN 14 2009

**OFFICE OF PETITIONS**

THE LAW OFFICE OF EDWARD L BISHOP
1240 S. OLD FORGE CT.
PALATINE IL 60067

In re Application of :
O'Shea : ON PETITION
Application No. 11/837,923 :
Filing Date: August 29, 2007 :
Docket No.: OLY-071166 :

This is a decision on the renewed petition filed October 29, 2007, wherein petitioner requests the above-identified application be accorded a later filing date of August 29, 2007, the date that drawings were received for the application.

The petition is **GRANTED**.

The application was received electronically by the USPTO on August 13, 2007. On August 24, 2007, a Notice of Incomplete Nonprovisional Application ("Notice") was mailed indicating that the application had not been accorded a filing date because the application had been submitted without drawings as required per 35 USC 113.

The Notice advised as follows: the filing date of the application would be the date of receipt of the omitted drawings, unless otherwise indicated. Any assertions that the drawings 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.

A petition for a filing date of August 13, 2007 was filed August 29, 2007 and dismissed September 26, 2007.

Petitioner herein requests that the filing date of the instant application be that of the date of submission of the omitted drawings. A copy of the omitted drawings was submitted August 29, 2007. A declaration covering the drawings was submitted October 29, 2007.

In view of the above, the petition is hereby **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of August 29, 2007 and with entry of the drawing figures filed on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

/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
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www.uspto.gov

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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MAY 20 2008
OFFICE OF PETITIONS

In re Application of :
SEVRAIN, LIONEL C. :
Application No. 11/837,937 : DECISION ON PETITION
Filed: 08/13/2007 :
Attorney Docket No. 26568.1.4CIP :
Title: ANCHORING SYSTEM FOR FIXING :
OBJECTS TO BONES :

This is in response to the petition under 37 CFR 1.47(b), filed January 22, 2008. Applicant obtained an extension of time within the third month. Accordingly, the petition is filed timely.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims 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.

Applicant lacks item (2) set forth above.

As to item (2), the Office notes that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

On filing the present application, applicant submitted an Application Data Sheet, which identified Lionel C. Sevrain as the sole inventor of the subject invention. With the present petition, applicant filed a "DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)." The declaration listed "James Nicholson, Manager, Orthoplex, LLC as Assignee" in the blank after "Inventor One." Furthermore, James Nicholson signed his name in the signature block for the first inventor. Applicant has identified on filing and in the present petition that the sole inventor is Lionel C. Sevrain. Therefore, Mr. Nicholson should **not** identify himself in the block for the printed name of the inventor or sign in the inventor's signature block. Rather, to avoid any confusion, as well as to ensure the record is correct on its face, the Office requests that applicant submit a new declaration completed and signed by an appropriate person on behalf of the non-signing inventor. The Office suggests that applicant provide the title and signature of Mr. Nicholson or another appropriate person in a separate space (not in the block for the printed name of the inventor or in the block for the inventor's signature.) to avoid any mistaken belief Mr. Nicholson is a named inventor in the subject application.

Accordingly, to correct the deficiencies in the declaration, applicant <u>must</u> submit a new declaration which properly identifies Lionel C. Sevrain as the sole inventor. Applicant should leave the inventor's signature line blank. Additionally, Mr. Nicholson, or another appropriate person, should indicate his title and sign his own name on behalf of the non-signing inventor (not in the inventor's signature block) in compliance with 37 CFR 1.63 and 1.64 as indicated above.

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| 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 |

Telephone inquiries 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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AUG 1 4 2008

**OFFICE OF PETITIONS**

In re Application of
SEVRAIN, LIONEL C.
Application No. 11/837,937
Filed: 08/13/2007
Attorney Docket No. 26568.1.4CIP
Title: ANCHORING SYSTEM FOR FIXING OBJECTS TO BONES

DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(b), filed July 23, 2008 (certificate of facsimile transmission dated July 18, 2008).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

Upon further review, it appears that applicant lack items (5) set forth above. Accordingly, the petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

In the original petition, Applicant asserted that "Orthoplex, LLC owns the rights to the application by virtue of one or more of the assignments executed by Dr. Sevrain to Orthoplex, LLC and recorded at Reel/Frame 15476/869 or 16273/362." Additionally, applicant submitted a Statement under 37 CFR 3.73(b). However, the assignment information recorded at Reel/Frame 15476/869 or 16273/362 does not clearly indicate that the instant invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant.

Pursuant to MPEP 409.03(f):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted.... A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Therefore, upon further review, it is determined that applicant has failed to show that Orthoplex, LLC has sufficient proprietary interest in the subject matter to justify the filing of the application.[1]

Further correspondence with respect to this matter should be addressed as follows and directed to the attention of Senior Petitions Attorney Christina Tartera Donnell:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] The Office notes that in the case of a divisional or continuation application, a prior assignment recorded against the original application is applied to the divisional or continuation application. MPEP 306. However, in the case of a continuation-in-part application, a prior assignment of the original application is not applied to continuation-in-part application. *Id.* In a continuation-in-part application, an applicant must submit a new assignment. *Id.*

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BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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MAY 27 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| SEVRAIN, LIONEL C. | : | |
| Application No. 11/837,937 | : | DECISION ON PETITION |
| Filed: 08/13/2007 | : | |
| Attorney Docket No. 26568.1.4CIP | : | |
| Title: ANCHORING SYSTEM FOR FIXING | : | |
| OBJECTS TO BONES | : | |

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 14, 2009. Applicant obtained an extension of time for response within the third month. Accordingly, the renewed petition is filed timely.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

Upon further review, it appears that applicant lack items (5) set forth above. Accordingly, the petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

On renewed petition, applicant submitted "assignments from the inventor, Dr. Lionel Sevrain to Orthoplex, LLC, James Nicholson as Manager for the priority patent applications and any improvement or continuation applications from those priority patent applications."

Pursuant to MPEP 409.03(f):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted.... A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

The Office notes that in the case of a divisional or continuation application, a prior assignment recorded against the original application is applied to the divisional or continuation application. MPEP 306. However, in the case of a continuation-in-part application, a prior assignment of the original application is not applied to continuation-in-part application. *Id.* In a continuation-in-part application, an applicant must submit a new assignment. *Id.* As the instant application is a continuation-in-part application, prior assignments of the prior-filed applications are not applied to this application. Therefore, it is determined that applicant has failed to show that Orthoplex, LLC has sufficient proprietary interest in the subject matter to justify the filing of the application.

To establish proprietary interest in the instant application, applicant must submit a legal memorandum indicating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. An attorney familiar with the law of the jurisdiction should prepare and sign the legal memorandum. The attorney should also provide the USPTO with a copy of the statute or court decision that the attorney relied on to demonstrate a proprietary interest.

Further correspondence with respect to this matter should be addressed as follows and directed to the attention of Senior Petitions Attorney Christina Tartera Donnell:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone 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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BURNS & LEVINSON, LLP
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BOSTON MA 02110

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FEB 25 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| SEVRAIN, LIONEL C. | : | |
| Application No. 11/837,937 | : | DECISION ON PETITION |
| Filed: 08/13/2007 | : | |
| Attorney Docket No. 26568.1.4CIP | : | |
| Title: ANCHORING SYSTEM FOR FIXING | : | |
| OBJECTS TO BONES | : | |

This is in response to the renewed petition under 37 CFR 1.47(b), filed July 27, 2009.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

Upon further review, it appears that applicant lack items (5) set forth above. Accordingly, the petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

On renewed petition, applicant states:

> [A]ssignee submits herewith a copy of a Settlement Agreement dated September 28, 2006 and signed by both the Assignee and the non-signing inventor, Lionel C. Sevrain. Paragraph 5(b) specifically states, "Sevrain agrees [...] to provide [...] advice and counsel regarding any issues that may arise in the prosecution by OrthoPlex of the patent applications for the [...] TAS Technology, which accordingly hereunder are

> solely and completely owned by OrthoPtex." Schedule A to the Settlement Agreement further defines the "TAS" technology as the "Triangular Anchoring System Technology" and identifies the TAS technology as being the subject of the Application Serial No. 10/275,710, which is the parent of the present application.
>
> In view thereof, Assignee respectfully asserts that it has sufficiently established proof of proprietary interest in the above-referenced patent application.

*Petition, 07/27/09, p. 2.*

After careful review of the Settlement Agreement, the Office has determined that the agreement does not clearly establish that applicant has sufficient proprietary interest in the subject matter of this application to justify the filing of the application.

As previously requested in the decision of May 27, 2009, applicant should submit an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, NY 10022

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JUN 25 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Sheryl Behar et al.
Application No. 09/469,993
Filed: December 22, 1999
For: METHOD AND SYSTEM FOR AWARDING REBATES BASED ON CREDIT CARD USAGE TO CREDIT CARD HOLDERS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed June 21, 2001.

The petition is granted.

Applicants' have shown that the non-signing inventor has refused to join in 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(a), 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.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

Mail Date: 07/13/2010

| | | |
|---|---|---|
| **Applicant** | : Colleen K. Van Pelt | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641242 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/837,989 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GREENBERG & TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

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**OFFICE OF PETITIONS**

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|---|---|
| In re Application of | : |
| Malcolm Slaney et al. | : |
| Application No. 11/838,003 | : ON PETITION |
| Filed: August 13, 2007 | : |
| Attorney Docket No. 085804-075000 | : |

This is a decision on the petition filed October 30, 2007, under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of August 13, 2007.

The petition is **DISMISSED AS INAPPROPRIATE**

Petitioner requests that the application be accorded the original filing date of August 13, 2007 with the drawings submitted with the instant petition and preliminary amendment, instead of the drawings provided on August 13, 2007 with the application.

In this instance, no petition is necessary since the application was already accorded a filing date. Instead, in view of the preliminary amendment filed with the instant petition and the drawings, the amendment filed October 30, 2007 will be retained in the file for review by the Examiner in due course.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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22nd Floor
120 South Riverside Plaza
Chicago IL 60606-3945

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MAR 24 2008

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Smith, et al. | : DECISION REFUSING STATUS |
| Application No. 11/838,027 | : UNDER 37 CFR 1.47(a) |
| Filed: August 13, 2007 | : |
| Atty. Dkt. No.: 1609/99221 | : |

This decision is in response to the petition under 37 CFR 1.47(a) filed February 21, 2008.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 13, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed August 22, 2007. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioners have failed to establish that the non-signing inventors received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or

declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioners state that the non-signing inventors received a copy of the application. The date and manner by which the non-signing inventors received the application papers is not disclosed. Petitioners go on to state that on February 28, 2008, non-signing inventor David Smith orally refused, on behalf of himself and non-signing inventor Regina De-Santis Smith, Mr. Smith's spouse, to execute a declaration for the instant application. Petitioners state that at that time, Mr. Smith stated that both he and non-signing inventor Regina De-Santis Smith received the application and that both he and Regina De-Santis Smith refused to sign the declaration.

While it can be found that Mr. Smith has refused to sign the declaration after acknowledging receipt of the application, it cannot be found that Regina De-Santis Smith received the application (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration. There is nothing in the record to establish David Smith has been properly empowered to represent Regina De-Santis Smith. Thus, it cannot be found that David Smith's refusal to sign the declaration constitutes a refusal to sign the declaration for Regina De-Santis Smith.

Petitioners' state that on January 11, 2008, Regina De-Santis Smith orally indicated that any discussion concerning the signing of the declaration should be done through David Smith. This statement is not found to be a refusal to sign as it has not been established that prior to the conversation on January 11, 2008, Regina De-Santis had received the complete application papers (specification, including claims, drawings, and oath or declaration).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that non-signing Regina De-Santis Smith was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the

Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further, to the extent that petitioners communicate with the inventor via email, any renewed petition must be accompanied by evidence which sufficiently establishes that the copy of the application papers forwarded to the inventor via email was in a form that could be read and comprehended by the intended recipient, and that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate receipt of the email and referenced attachments via return email in a 37 CFR 1.47(a) scenario.

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By hand: | U.S. Patent and Trademark Office<br>Customer Service Window<br>Mail Stop Petition<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago IL 60606-3945

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JUN 16 2008

**OFFICE OF PETITIONS**

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|---|---|
| In re Application of | : |
| Smith, et al. | : DECISION GRANTING STATUS |
| Application No. 11/838,027 | : UNDER 37 CFR 1.47(a) |
| Filed: August 13, 2007 | : |
| Atty. Dkt. No.: 1609/99221 | : |

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed May 22, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors have refused to execute the declaration for the above-identified application after having been presented with the application papers (specification, including claims, drawings, and oath or declaration).

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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David W. Smith
7820 E Via Costa
Scottsdale, AZ 85258

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JUN 16 2008

**OFFICE OF PETITIONS**

In re Application of :
Smith, et al. :
Application No. 11/838,027 :
Filed: August 13, 2007 :
Atty. Dkt. No.: 1609/99221 :

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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Regina DeSanctis-Smith
7820 E Via Costa
Scottsdale, AZ 85258

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JUN 16 2008

**OFFICE OF PETITIONS**

In re Application of :
Smith, et al. :
Application No. 11/838,027 :
Filed: August 13, 2007 :
Atty. Dkt. No.: 1609/99221 :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MARSH, FISCHMANN & BREYFOGLE LLP**
**3151 SOUTH VAUGHN WAY, SUITE 411**
**AURORA, CO 80014**

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SEP 0 4 2007

**OFFICE OF PETITIONS**

In re Application of :
**RAYMOND**, et al. :
Application No. 11/838,045 : DECISION ON PETITION
Filed: August 13, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **50383-00029** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 16, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement of inventor Howard G. Lange, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the 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 2873 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**TWO EMBARCADERO CENTER**
**EIGHTH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

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OCT 27 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **HAYES,** Thomas J. | : | |
| Application No. 11/838,078 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **46894-0100** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 08, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on September 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KING & SPALDING LLP**
**P.O. BOX 889**
**BELMONT CA 94002-0889**

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**STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.**
**1100 NEW YORK AVENE N.W.**
**WASHINGTON, DC 20005**

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| | | |
|---|---|---|
| In re Application of. | : | |
| Hormann et al. | : | |
| Application No. 11/838,090 | : | NOTICE |
| Filed: October 27, 2008 | : | |
| Attorney Docket No. AD060-1CON2 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**Sterne, Kessler, Goldstein & Fox P.L.L.C.**
**1100 New York Avene**
**N.W.**
**Washington DC 20005**

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|---|---|---|
| In re Application of | : | |
| Robert Eugene Hormann, et al. | : | |
| Application No. 11/838,095 | : | NOTICE |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. AD060-1CON | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

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**MARSHALL, GERSTEIN & BORUN LLP**
**233 SOUTH WACKER DRIVE**
**6300 WILLIS TOWER**
**CHICAGO IL 60606-6357**

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JUN 17 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Adam H. Khan | : | DECISION ON PETITION |
| Application No. 11/838,100 | : | TO WITHDRAW |
| Filed: August 13, 2007 | : | FROM RECORD |
| Attorney Docket No. 30930/40677A | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 14, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Randall G. Rueth on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed December 17, 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

Joan Olszewski
Petitions Examiner
Office of Petitions

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**ROBERT J. DEPKE**
**LEWIS T. STEADMAN**
**ROCKEY, DEPKE & LYONS, LLC**
**SUITE 5450 SEARS TOWER**
**CHICAGO IL 60606-6306**

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JUL 13 2010

OFFICE OF PETITIONS

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| In re Application of | : | |
| Todd Siegel | : | |
| Application No. 11/838,106 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. 084016.00056 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 31, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Townsend And Townsend And Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

NOV 15 2007

In re Application of: PRESCOTT, Steven C.
Serial No.: 11/838,113
Filed: August 13, 2007
Title: INTERACTIVE BOOK WITH DETACHABLE, POP-UP DEVICE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on August 13, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;
2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;
3. include a statement that applicant agrees to make an election without traverse in a telephone interview.
4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I: 1-4 and II: 5.1, 5.3, 6.1, 6.4, and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2, 6.2, 6.3, and 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document pages

1-22, the Pre-Examination Search Statement pages 1-6, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web onAugust 13, 2007.

Regarding the requirements of section II element 5.2 outlined above, the pre-examination search conducted by the petitioner has excluded two critical search areas. Petitioner has conducted no search in class 281; a search in at least subclasses 15.1, 29, 36-38, and 51 appears appropriate. Petitioner has also not conducted any search in class434; a search in at least subclasses 129, 317, 393, 403, 427, and 428 appears appropriate. The text search conducted by petitioner appears to be too limited and therefore does not give the claims the broadest reasonable interpretation. The text search of EAST was limited only to the title and abstract. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-20, including the specific limitations of the dependent claims, have been specifically searched. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. The IDS filed with the petition cites 20 US references, 1 foreign patent, and 1 NPL document as most closely related. However, in discussing all the limitations that are disclosed by each reference, petitioner only discusses 4 of these references. Petitioner has failed to identify all the limitations in the claims that are disclosed by *each reference* specifying where the limitation is disclosed in the cited reference. A grantable petition requires an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This analysis should be done for each claim for a grantable petition. That a limitation may be, in petitioner's opinion, lacking from a reference when comparing the reference to an independent claims does not exempt petitioner from the remaining analysis of what the reference discloses with respect to each claimed limitation in the remaining dependent claims.

Regarding the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how *each* of the claims are patentable over *each* of the references with particularity required by 37 CFR 1.111(b) and (c). The IDS filed with the petition cites 20 US references, 1 foreign patent, and 1 NPL document as most closely related. However, in discussing all the limitations that are disclosed by each reference, petitioner only discusses 4 of these references. Petitioner has failed to identify all the limitations in the claims that are disclosed by *each reference* specifying where the limitation is disclosed in the cited reference. Also, petitioner has merely referred to the references collectively throughout this section rather than discussing each claim with respect to *each* reference. Even if this were to be found acceptable, this section is deficient for additional reasons. Petitioner avers that none of the references discloses each and every limitations of any of claims 1-20. This discussion of

patentability is deficient for several reasons. *Each* claim should be discussed with respect to each reference with *particularity* to how each claim is patentable. This is true for sections regarding anticipation (i.e. 102) as well as obviousness (i.e. 103). Therefore, petitioner has failed to *particularly* point out the patentability of *each* of claims 1-20 with respect to *each* reference. Petitioner should ensure that this patentability section *clearly and completely* presents *detailed explanation* of how *each* claim is patentable over *each* cited reference. Lastly, it is also noted that petitioner ought make clear whether the patentability of each dependent claims ia predicated solely on that of the claim from which it depends, or should provided a detailed explanation of patentability specific to that particular claim. As outlined above, all claims must be addressed with at least the same specificity to claim language as is needed to meet the requirement of section II element 6.2 above, and with respect to each cited reference. For reference, a grantable petition must meet the requirements of the practice and such includes a discussion with respect to the claimed subject matter. 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of each priority document for which benefit under 35 USC is claimed. The petition fails to provide this showing entirely with respect to PCT/US2006/037161 and US 60/914,556, each to which priority is claimed. A grantable petition requires a *complete* showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed. It is also noted with respect to this section that applicant is silent as to whether or not the claims contain any means/step plus function language and that such silence is taken as a positive statement that the claims contain no such 112, 6th paragraph language.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

FEB 19 2008

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| In re Application of: Prescott, Steven C.<br>Serial No.: 11/838,113<br>Filed: August 13, 2007<br>Title: INTERACTIVE BOOK WITH DETACHABLE, POP-UP DEVICE | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the request for reconsideration filed on December 17, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The request has been treated as a renewed petition to make the above-identified application special and has been viewed as a supplement to and in combination with the original petition which was filed on August 13, 2007 and dismissed in the Office letter of November 15 2007.

The petition to make the application special is **DENIED.**

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the conditions as outlined in the prior petition decision. The conditions are not repeated herein.

## REVIEW OF FACTS

As stated in the decision of November 15 2007, conditions I: 1-4, II: 5.1, 5.3, 6.1, 6.4, and 6.6 were considered to have been met. However, the petition failed to comply with conditions II: 5.2, 6.2, 6.3, and 6.5 above. Upon reconsideration, the petition is considered to additionally meet II: 5.2 but remains deficient in meeting condition II: 6.2, 6.3, and 6.5. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DISCUSSION

Regarding the requirements of section II element 6.2, Applicant failed to clearly separate and distinguish between those references that are most closely related to the subject matter claimed, and those references that are filed for background information only. To comply with this requirement, Applicant should have re-filed the originally filed IDS, and split it into an IDS listing the most closely related references to the subject matter claimed, and a separate IDS listing those reference that are filed in compliance with 37 C.F.R. 1.97 and 1.98, but are not filed as part of the AESD. As it stands now, the AESD contains 22 references, but the discussion of only four (Skolnick, Knight, Slonims, and Reesman) complies with the requirement of section II element 6.2. It is noted that in the AESD filed with the Request for Reconsideration, Applicant wrote:

*"An Information Disclosure Statement (IDS) in compliance with 37 CFR §1.98 has been previously filed citing 22 references uncovered in the pre-examination search. While only four of these references are deemed most closely related to the subject matter of the claims, Applicant has provided a detailed showing for all 22 of these references. In addition, a Supplemental IDS in support of Accelerated Examination is filed herewith citing one reference, U.S. Patent No. 40,654, which is also discussed below. Thus, the references* ***most closely related*** *to the claimed invention are listed below:"*

The underlined texts seem to be contradictory, because the "listed below" is a list of 22 references. The statement that

*"Applicant has provided a detailed showing for all 22 of these references."*

is incorrect, because Applicant has provided a detailed showing for only four of the references as already noted above.

Regarding the requirements of section II element 6.3 outlined above, the requirements of this section are not satisfied. In the dismissal of the petition it was noted that:

*"Regarding the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each of the claims are patentable over each of the references with particularity required by 37 CFR 1.11 l(b) and (c). ..... Each claim should be discussed with respect to each reference with particularity to how each claim is patentable. This is true for sections regarding anticipation (i.e. 102) as well as obviousness (i.e. 103). Therefore, petitioner has failed to particularly point out the patentability of each of claims 1-20 with respect to each reference. Petitioner should ensure that this patentability section clearly and completely presents detailed explanation of how each claim is patentable over each cited reference. Lastly, it is also noted that petitioner ought make clear whether the patentability of each dependent claims is predicated solely on that of the claim from which it depends, or should provided a detailed explanation of patentability specific to that particular claim. As outlined above, all*

*claims must be addressed with at least the same specificity to claim language as is needed to meet the requirement of section II element 6.2 above, and with respect to each cited reference."*

In the response, the Petitioner made general statements regarding the patentability of the claimed invention over the references cited, and therefore failed to meet the requirements as detailed in the dismissal of the petition.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not satisfied, because the showing fails to be specific. Regarding the claimed limitations, the submission lacks a consistent specific one-to-one mapping of the limitations in the claims and the specific teachings of said limitations in the application's description, drawings included. Applicant is reminded that a proper mapping of each limitation should be made by identifying of the appropriate page or paragraph, specific line, and element number identifiable in a figure. Pointing to a paragraph is not considered to be specific enough.

Note: As a courtesy to the Applicant, the Examiner notes with regard to section II: element 6.4, that it would have been desirable to have the utility as defined in each one of the independent claims addressed individually, rather than lumping them together as it was presently done. It is also noted that the concise statement filed is not specific enough. However, on its own, this would not have been a reason for denial at this stage.

DECISION

For at least the above-stated reasons, the petition is **DENIED**. The application will remain in its regular status and will be taken up by the examiner for action in its regular turn. Note that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner to submit another petition in any continuing application.

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Ehud Gartenberg, Special Program Examiner, at 571 272 4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.

Ehud Gartenberg

Ehud Gartenberg
Special Program Examiner
Technology Center 3700

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FLETCHER YODER (CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
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| | | |
|---|---|---|
| In re Application of | : | |
| Walpole, et al. | : | DECISION GRANTING STATUS |
| Application No. 11/838,123 | : | UNDER 37 CFR 1.47(a) |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. CMRN:0036 SWA/TUC | : | |
| ESA-030 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed January 21, 2008.

The petition is GRANTED.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the complete application papers (specification, including claims, drawings, and oath or declaration).

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

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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James J. Walpole
16019 Mustang Glen Lane
Cypress, Texas 77429

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JUN 23 2008
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In re Application of :
Walpole, et al. :
Application No. 11/838,123 :
Atty. Dkt. No. CMRN:0036 SWA/TUC ESA-030 :

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

COUNSEL OF RECORD:
FLETCHER YODER (CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
HOUSTON TX 77251

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**MUNCY, GEISSLER, OLDS & LOWE, PLLC**
**P.O. BOX 1364**
**FAIRFAX, VA 22038-1364**

**MAILED**

SEP 28 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Frank Lochner | : | DECISION ON PETITION |
| Application No. 11/838,125 | : | TO WITHDRAW |
| Filed: August 13, 2007 | : | FROM RECORD |
| Attorney Docket No. 1005/0140PUS1 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on September 3, 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.*

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 a Non-Final Office action mailed May 29, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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AUSTIN TX 78701

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| | | |
|---|---|---|
| In re Application of | : | |
| Liggett, et al. | : | |
| Application No. 11/838,131 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | |
| Attorney Docket No. ARCA:003USC1 | : | |

This is a decision on the petition filed October 29, 2007, which is properly treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded a filing date of August 13, 2007.

The instant application was deposited on August 13, 2007. However, the application omitted a copy of the drawings. Accordingly, on August 28, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed drawings and the instant petition on October 2929, 2007. Petitioner argues that drawings were incorporated by reference pursuant to a priority claim.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> For an application filed on or after September 21, 2004, if the material needed for a filing date is completely contained within a prior-filed application to which benefit is claimed, applicant may file a petition under 37 CFR 1.57(a)(3) along with the fee set forth in 37 CFR 1.17(f) and an amendment with the inadvertently omitted material requesting that the amendment be entered and the application be accorded a filing date as of the original date of deposit of the application papers. See 37 CFR 1.57(a)(3) and MPEP § 201.17. **In an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182.** A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered..[1]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[2] Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was able to be accorded at the time of filing. However, page 1 of the specification reveals that petitioner properly incorporated the nonprovisional application No. 11/226,908 pursuant to an explicit incorporation by reference statement. In addition, petitioner has submitted the omitted drawings, paid the $400 petition fee, and submitted an amendment seeking entry of the drawings. Accordingly, the above identified application is entitled to a filing date of August 13, 2007.

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[1] MPEP 201.06(c)(emphasis added).

[2] See id.

In view thereof, the petition is **GRANTED**.

The application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of August 13, 2007, using the application papers received in the Office on that date and the 29 drawing sheets supplied on petition filed October 29, 2007. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Telephone inquiries specific to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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JUN 03 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Liggett, et al. | : | |
| Application No. 11/838,142 | : | DECISION |
| Filed/Deposited: 13 August, 2007 | : | |
| Attorney Docket No. ARCA:003USC2/ 10711860 | : | |

This is a decision on the "II. Petition" filed on 17 October, 2007, requesting that the instant application be accorded a filing date of 13 August, 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 13 August, 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 17 August, 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 17 October, 2007, Petitioner filed, *inter alia*, the instant petition with fee, and copies of 29 sheets of drawings (FIGS. 1 - 29) that Petitioner asserts were inadvertently omitted. Petitioner points to the prior-filed and copending nonprovisional Application No. 11/226,908 (filed on 14 September, 2005), the claim for priority thereto made in the specification (preliminary amendment) 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 13 August, 2007,included a claim for priority to the prior-filed nonprovisional Application No. 11/226,908 (filed on 14 September, 2005), 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 nonprovisoinal 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 71, Claim 72).

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 17 August, 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 13 August, 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 credit card. 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 13 August, 2007;**
- **for indication in Office records, as appropriate, with the 149 pages of specification and 6 pages of preliminary amendment (description, claims, abstract) deposited on 13 August, 2007, and "0" sheets of drawings were present on filing and**
- **for issuance of a filing receipt.**

**Entry of the amendment previously 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,151 | 08/13/2007 | Justin COON | 308183US2CRL | 6241 |

7590 01/12/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| GHAYOUR, MOHAMMAD H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/12/2010 | 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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Refs
01/11/2010 3023372713

Credit Card Refund Total: $700.00

No Deposit Account Charged

Adjustment date: 01/11/2010 MFARMER
08/14/2007 INTEFSW 00000359 11838151
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP



FORM PET651G (Rev. 08/07)

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LITTLE B. COMPANY
ATTN: SARAH BARKER-BALL
24113 SARGEANT ROAD
RAMONA, CA 92065

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JAN 0 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Newton Evans Ball | : | |
| Application No. 11/838,201 | : | DECISION ON PETITION |
| Filed: August 13, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. BALL.002A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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**ONDA TECHNO Intl. Patent Attys.**
**12-1 Omiya-cho 2-chome**
**Gifu City 500-8-731 JP JAPAN**

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MAR 2 9 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Li Zhang, et al. | : | |
| Application No. 11/838,209 | : | DECISION ON PETITION |
| Filed: August 31, 2007 | : | |
| Attorney Docket No. | : | |
| WM10005AC/P1P2010179US | | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 23, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 23, 2009. Accordingly, the date of abandonment of this application is December 24, 2009. The Notice of Abandonment was mailed January 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Arthur W. Ruff

Application No. 11838217

Filed: August 13,2007

Attorney Docket No. 2490-4

: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-JUL-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

## Application Information

| | | | | | |
|---|---|---|---|---|---|
| Application Number | 11838230 | Confirmation Number | 6383 | Filing Date | 2007-08-14 |
| Attorney Docket Number (optional) | 546-000100US | Art Unit | 3714 | Examiner | THAI, XUAN MARIAN |
| First Named Inventor | John French | | | | |
| Title of Invention | SMART CARD HOLDER FOR AUTOMATED GAMING SYSTEM AND GAMING CARDS | | | | |

**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 |
|---|---|---|---|
| John | | French | |

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 | /stephen j leblanc/ | Date (YYYY-MM-DD) | 2008-03-29 |
| Name | Stephen J. LeBlanc | Registration Number | 36579 |

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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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.

# UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
John B. French

Application No. 11838230

Filed: August 14,2007

Attorney Docket No. 546-000100US

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 29-MAR-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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MAILED

SEP 2 8 2009

Technology Center 2100

Mark M. Friedman
Robert Sheinbein
2940 Birchtree Lane
Silver Spring, MD 20906

September 28, 2009

*In re* Application of:
Martin Liepert et al
Appl. No.: 11/838247
Filed: 08/14/2007
Attorney Docket Number: 2808
Title of Invention: Code Obfuscation By Linking

DECISION ON PETITION
TO CORRECT INVENTORSHIP
UNDER 37 CFR § 1.48(a)

This is a decision on petitions inventor filed on January 15, 2008 and June 29 2008 under 37 CFR § 1.48(a) to remove inventor Martin Leipert. Two versions of the petition were filed. In the first version submitted on January 15, 2008, the authorized party is not identified on the Consent of Assignee. This omission is corrected in the petition filed June 29, 2008.

The petition is **GRANTED**.

Accompanying the petition is an account statement of fees paid, a Statement of Facts of Inventor, and a Written Consent of the Assignee.

The petition for Correction of Inventorship under 37 CFR 1.48(a) is sufficient. In view of the petitions identified above, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by removing Martin Leipert as inventor. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591

/Gail Hayes/
Gail Hayes, SPRE/QAS
Workgroup 2190
TC 2100 Computer Architecture, and Software

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,247 | 08/14/2007 | Martin Liepert | 2808/136 | 6404 |

44696 7590 09/29/2009
DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2192 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 09/29/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mark_f@friedpat.com
friedpat@yahoo.com
sharon_l@friedpat.com

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. |
|---|---|---|---|---|
| 11/838,254 | 08/14/2007 | Koji AKITA | 313398US2SRDCONT | 6425 |

7590 01/26/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| GHAYOUR, MOHAMMAD H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/26/2010 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Refs
[illegible]

[illegible] Total: [illegible]

[illegible]

Adjustment date: 01/25/2010 NFARMER
08/14/2007 INTEFSW [illegible] 11838254
02 FC:1111 -500.00 CP
04 FC:1202 -400.00 CP
05 FC:1201 -400.00 CP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : SHIGEKI MAKINO | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7577319 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/838,256 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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. |
|---|---|---|---|---|
| 11/838,270 | 08/14/2007 | HERNAN FELIPE GIRALDO | | 6451 |

39778 7590 01/24/2008
VESNA N. RAFATY
18926 CAMPBELL ROAD
DALLAS, TX 75252

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2835 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/24/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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012008

VESNA N. RAFATY
18926 CAMPBELL ROAD
DALLAS, TX 75252

JAN 24 2008

In re Application of:
Hernan Felipe Giraldo
Serial No.: 11/838,270
Filed: August 14, 2007
Docket Number: None
Title: COMPACT, PORTABLE UNIVERSAL SCRIPT PROMPTER AND VIDEOCONFERENCING EYE CONTACT-ASSISTING DEVICE FOR PERSONAL COMPUTERS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102

This is a decision on the petition filed on November 15, 2007 to make the above-identified application special for accelerated examination procedure in accordance with 37 C.F.R. § 1.102(c)(2).

The petition to make the application special is **DENIED**.

Effective August 25, 2006, the accelerated examination procedure outlined under Manual for Patent Examining Procedure (MPEP) § 708.02.VIII was replaced by the new accelerated examination procedure outlined in MPEP § 708.02(a) and in the Federal Register, vol. 71, No. 122 of June 26, 2006 (71 Fed. Reg. 36323).

To be eligible for accelerated examination in accordance with 37 C.F.R. § 1.102(d) and pursuant to MPEP § 708.02(a), the following conditions are required:

1. the application is not a reissue utility or design application filed under 37 C.F.R. § 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 C.F.R. § 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under the notice in the Federal Register, vol. 71, No. 122 (June 26, 2006), and in accordance with 37 C.F.R. § 1.102(c)(2) because:
1. the petition was not filed concurrently with the application; and
2. the application was not complete under 37 CFR 1.51 and in condition for examination at the time of filing (a Notice to file Corrected Application Papers was mailed August 23, 2007 notifying the applicant of the informalities found in the drawings.

For the above-stated reasons, the application as filed is not eligible for accelerated examination and the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/.

Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

JUL 28 2010

OFFICE OF PETITIONS

In re Application of
Hui Zhong, et al.
Application No. 11/838,365
Filed: August 14, 2007
Attorney Docket No. 313057US40DIV

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 28, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on June 24, 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 2841 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.*

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application of
AJ Kleinozowski, et al.
Application No. 11/838,368
Filed: August 14, 2007
Attorney Docket No. AU920070561US1

DECISION ON PETITION

This is a decision on the petition, filed January 13, 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 **DISMISSED**.

This application was held abandoned for failure to timely submit a substitute Declaration on or before December 9, 2009, as required by the Notice of Allowability mailed with the Notice of Allowance and Fee(s) Due (Notice), September 9, 2009.

While it is noted that petitioner's supported documentation filed along with the petition on January 13, 2010 to prove applicant's name is in compliant with Rule 63 and does not require a supplemental oath or declaration, petitioner did not timely reply to the Notice of Allowability mailed September 9, 2009. Therefore, the abandonment was proper. The explanation concerning applicant's name should have been submitted in a timely manner as a response to the notice of defective oath or declaration.

In view of the above, 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 $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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."

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of
AJ Kleinozowski, et al.
Application No. 11/838,368
Filed: August 14, 2007
Attorney Docket No. AU920070561US1

CORRECTED
DECISION ON PETITION

**CORRECTED**

This is a decision on the petition, filed January 13, 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 or in the alternative a petition under the provisions of 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application was held abandoned for failure to timely submit a substitute Declaration on or before December 9, 2009, as required by the Notice of Allowability mailed with the Notice of Allowance and Fee(s) Due (Notice), September 9, 2009.

**With respect to 37 CFR 1.181**:

While it is noted that petitioner's supported documentation filed along with the petition on January 13, 2010 to prove applicant's name is in compliant with Rule 63 and does not require a supplemental oath or declaration, petitioner did not timely reply to the Notice of Allowability mailed September 9, 2009. Therefore, the abandonment was proper. The explanation concerning the applicant's name should have been submitted in a timely manner as a response to the Notice of Defective Oath and Declaration.

In view of the above, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

**With respect to 37 CFR 1.137(b)**:

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent

/Carl Friedman/
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

DESIGN, IP, PC
5100 W. TILGHMAN STREET
SUITE 205
ALLENTOWN, PA 18104

COPY MAILED
JAN 07 2009

Applicant: Stubblefield et al.
Appl. No.: 11/838,397
Filing Date: August 14, 2007
Title: METHOD AND APPARATUS FOR REDUCING FLUID DRAG ON A SUBMERGED SURFACE
Attorney Docket No.: NSP-P0004.1
Pub. No.: 2008/0022914 A1
Pub. Date: January 31, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 19, 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 in that Figure 9 is missing from the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication was published without Figure 9. Note that this is not a material mistake because the application is a continuation of 10/905,751, now U.S. Patent 7,267,067 and U.S. Patent Application Publication U.S. US 2006/0156,965 A1, both of which include Figure 9. Since the parent application is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has

[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 best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark O. Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 21, 2010

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/838397 /Patent no. 7597060

Please respond to this request for a certificate of correction w
ithin 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**

Magdalene Talley

**Certificates of Correction Branch**

**571-272-0423** _____

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

AU 3617

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

**VEDDER PRICE, PC**
**875 15TH STREET, NW**
**SUITE 725**
**WASHINGTON DC 20005**

COPY MAILED
JAN 27 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Allonca, Manuel G. | : | DECISION ON PETITION |
| Application No. 11/838,407 | : | TO WITHDRAW |
| Filed: August 14, 2007 | : | FROM RECORD |
| Attorney Docket No. MAPA-0001-UT1 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 12, 2008.

The request is **NOT APPROVED as involving a moot issue**.

The request to withdraw indicated that the petitioner, Steven B. Kelber, was withdrawing due to being suspended from practice before the USPTO for sixty (60) days pursuant to the provisions of 37 CFR 1.158. However, on February 27, 2009, a Power of Attorney was received, along with a copy of the granted Decision on Petition for Reinstatement for Steven B. Kelber.

In view of the letter from the Office of Enrollment and Discipline, the Request to Withdraw is moot.

The Power of Attorney received on February 27, 2009 asks to recognize Steven B. Kelber as an attorney of record in the instant application. However, the attorneys associated with the instant application were appointed via Customer Number. As set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124).

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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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,415 | 08/14/2007 | In-Yong HWANG | P2028US00 | 6687 |

7590 05/01/2009
H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

| EXAMINER |
|---|
| HJERPE, RICHARD A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/01/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/01/2009 0030069550
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Credit Card Refund Total: $500.00

Ac Exp..: XXXXXXXXXXX2002

Adjustment date: 05/01/2009 NFARMER
08/15/2007 INTEFSW 00000405 11838415
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

1/9/09

| | |
|---|---|
| *In re* Application of:<br>SATAKE, SHUTARO<br>Serial No.: 11/838,426<br>Filed: Aug. 14, 2007<br>Docket: 09864/0207488-US0<br>Title: RADIOFREQUENCY THERMAL BALLOON CATHETER SYSTEM | DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY (PPH) 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 Jan. 8, 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 corresponding application(s) filed in the JPO or to a PCT application that does not contain any priority claim, or the U.S. application must be a national stage entry of a PCT application that does not contain any priority claim;
(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 the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Petition is **granted**.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Barry J. Male | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595644 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/838,451 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Dae-seob KWEON | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650107 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/838,459 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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JAN 27 2009

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

| | |
|---|---|
| In re application of<br>Nobufusa Kobayashi et al.<br>Application No. 11/838,487<br>Filed: August 14, 2007<br>For: AUTOMATIC TRANSMISSION CONTROLLER FOR A VEHICLE AND METHOD FOR CONTROLLING AN AUTOMATIC TRANSMISSION SYSTEM FOR A VEHICLE | **DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)** |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed January 2, 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 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, adding claim language describing various additional features, adding method claims, and "adding clarifying language to conform to US patent practice", results in claims that do not sufficiently correspond to those allowed in the JP 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: 1/25/09

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MAR 1 1 2009

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

| | |
|---|---|
| In re application of<br>Nobufusa Kobayashi et al.<br>Application No. 11/838,487<br>Filed: August 14, 2007<br>For: AUTOMATIC TRANSMISSION CONTROLLER FOR A VEHICLE AND METHOD FOR CONTROLLING AN AUTOMATIC TRANSMISSION SYSTEM FOR A VEHICLE | **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 25, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 second preliminary amendment that now results in the claims pending in the application to correspond to those 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: 2/10/09

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/31/09 Paper No.: _____

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11838503 Patent No.: 7488836

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**

Valerie Jackson
**Certificates of Correction Branch**
**703-308-9390 ext.** 114

**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**

1625 **Art Unit**

PTOL-306 (REV. 7/03)

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tom R. Davison, Sr., et al. | : | |
| Application No. 11/838,534 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | |
| Attorney Docket No. 51913/341092 | : | |

This is a decision on the petition under 37 CFR 1.182, filed, July 15, 2008, to change the name of inventor "Thomas Dewey Davidson" to – Tom Randy Davidson, Sr. --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's name change, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3753 for examination in due course.

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 |
|---|---|---|---|---|---|---|
| 11/838,534 | 08/14/2007 | 3753 | 540 | 51913/341092 | 22 | 2 |

**CONFIRMATION NO. 6891**

**CORRECTED FILING RECEIPT**

23370
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

*OC000000032661931*

Date Mailed: 10/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Tom Randy Davidson SR., Griffin, GA;
David Phillips, Roswell, GA;
Anthony Ferrari, McDonough, GA;
David Michael Walden, Sharpsburg, GA;

**Power of Attorney:** The patent practitioners associated with Customer Number 23370

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/372,947 03/09/2006 PAT 7,428,910
which is a CIP of 10/997,733 11/23/2004 PAT 7,055,544
which is a CIP of 10/309,646 12/04/2002 PAT 6,868,860

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/838,534**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

RETROFITTING A FIRE HYDRANT WITH A REPLACEMENT HYDRANT BODY CONTAINING A SECONDARY VALVE

**Preliminary Class**

137

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,550 | 08/14/2007 | Kwang Ho CHEONG | YPL0466US | 6916 |

23413 7590 07/12/2010
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|
| KELLY, ROBERT M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1633 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/12/2010 | 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):

usptopatentmail@cantorcolburn.com

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JUL 1 2 2010

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of: CHEONG et al.
Serial No.: 11/838,550
Filed: August 14, 2007
Attorney Docket No.: YPL0466US
Title: **METHOD AND APPARATUS FOR DISRUPTING CELLS AND AMPLIFYING NUCLEIC ACIDS USING GOLD NANORODS**

DECISION ON PETITION

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on March 30, 2010.

## BACKGROUND

On November 13, 2009 the Examiner issued a Restriction requirement which was reissued on November 20, 2009. The Examiner separated the pending claims into 21 groups taking the position that the inventions involved were related as combination-subcombination. The following excerpts from the Restriction requirement capture the examiner's rationale:

> I. Claims 2, drawn to a method comprising adding gold nanorods to a solution of cells and irradiating a laser onto the gold nanorods to disrupt the cells, with nanorods having specific diameter to length ratio, classified in class 435, subclass 29.
> II. Claims 3, drawn to a method comprising adding gold nanorods to a solution of cells and irradiating a laser onto the gold nanorods to disrupt the cells, the nanorods having a length of about 10 to about 500nm, classified in class 435, subclass 5.
>
> . . .
>
> IX. Claim 12, drawn to a method comprising introducing a solution containing cells and gold nanorods into a microchamber, irradiating a laser onto the gold nanorods to disrupt the cells, and amplifying a nucleic acid from the disrupted cells in the
> microchamber, wherein the nanorods have a diameter to length ratio of about 1:2 to about 1:5, classified in class 435, subclass 7.4.
> X. Claim 13, drawn to a method comprising introducing a solution containing cells and gold nanorods into a microchamber, irradiating a laser onto the gold nanorods to disrupt the cells, and amplifying a nucleic acid from the disrupted cells in the microchamber, wherein the gold nanorods have a length of about 10 to about 500nm, classified in class 435, subclass 40.52.
>
> . . .
>
> The inventions are distinct, each from the other because of the following reasons: Inventions I-VIII (Hereinafter "Invention Set I") are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants,

and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as flow cytometry to identify cells comprising the nanoparticles. See MPEP § 806.05(d).

. . .

Inventions IX-XVIII (Hereinafter "Invention Set II") are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IX has separate utility such as flow cytometry to isolate cells comprising the nanorod and amplification of nucleic acids in the isolated cells. See MPEP § 806.05(d). Inventions XIX-XXI (Hereinafter "Invention Set Ill") are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination XVIII has separate utility such as a stop-flow apparatus for analyzing chemical reactions. See MPEP § 806.05(d).

In the instant case, the different inventions are not disclosed as capable of use together, and they have different designs, which yield distinct modes of operation and effects. To wit, Invention Set I requires consideration of how the nanorods are added to the cells, and laser light is irradiated on the solution, while Invention Set II requires consideration of how to place a solution of nanorods and cells into a microchamber, and how to amplify the nucleic acid. Invention Sets I and II are related as process and apparatus for its practice to Invention Set Ill. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used to perform stopped-flow kinetics or flow cytometry.

Claim 1 link(s) inventions I-VIII. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 1.

Claim 11 link(s) inventions IX-XVII. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 11.

1. A method of disrupting cells comprising:
   adding gold nanorods to a solution containing cells; and
   irradiating a laser onto the gold nanorods to disrupt the cells.

11. A method of continuously disrupting cells and amplifying nucleic acids in a single microchamber comprising:
   introducing a solution containing cells and gold nanorods into a microchamber;
   irradiating a laser onto the gold nanorods to disrupt the cells; and
   amplifying a nucleic acid from the disrupted cells in the microchamber.

Claim 23 link(s) inventions XIX-XXI. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 23.

Applicant's arguments, in part, traversing the restriction requirement are cited below:

Applicants respectfully traverse the restriction of independent claim 1 and claims 2-10 (Groups I-VIII), which depend from claim 1, into eight inventive groups.

Claim 1 is directed to a method of disrupting cells. The method comprises adding gold nanorods to a solution containing cells; and irradiating a laser onto the gold nanorods to disrupt the cells. Claims 2-10 depend directly from claim 1 and further delimit the method of disrupting cells.

Since claims 2-10 depend from claim 1, and are each directed to a method of disrupting cells, claims 2-10 do not meet the distinctness requirements for proper restriction into separate inventions, but instead simply vary the scope of the same claimed embodiment of the invention. Applicants note that MPEP 806.03 states:

Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required.
This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Therefore the restriction of claims 1-10 divided into eight invention groups linked by claim 1 is clearly erroneous since claims 1-10 are a set of claims directed to the same claimed embodiment, with each claim simply varying in scope.

Further with respect to the statement in the restriction (p. 6) that subcombination I (i.e., claim 2) has separate utility such as flow cytometry to identify cells comprising the nanoparticles, Applicants note that claim 2 is not merely directed to gold nanorods having a diameter to length ratio ranging from about 1:2 to about 1:50, but instead, claim 2 further delimits claim 1 and therefore is directed to a method of disrupting cells comprising adding gold nanorods having a diameter to length ratio ranging from about 1:2 to about 1:50 to a solution containing cells; and irradiating a laser onto the gold nanorods to disrupt the cells. Applicants fail to understand, from a technical standpoint, how the claimed method of disrupting cells of claim 2 has separate utility in flow cytometry as alleged. No evidence supporting the validity of this alleged separate utility of the claimed method of disrupting cells is provided.

Applicants request reconsideration and withdrawal of the restriction of claims 1-10 into eight invention groups.

. . .

Applicants further respectfully traverse the restriction of independent claim 23 and claims 24-27 (XIX-XXI) which depend directly or indirectly from claim 23 into 3 inventive groups. Applicants reasons are analogous to those above against the restriction of claims 1-10 into eight groups or claims 11-22 into ten groups.

Independent claim 23 is directed to an apparatus comprising a cell disruption chamber comprising a sample inlet; a laser attached to the cell disruption chamber r; and a heater and a cooler for heating and cooling the cell disruption chamber. Claims 24-27 depend directly or indirectly from claim 23.

Since claims 24-27 depend from claim 23, and are each directed to a different scope of the apparatus of claim 23, claims 24-27 do not meet the distinctness requirements for proper restriction into separate inventions. (MPEP 806.03)

**DISCUSSION**

Claims 1 and 11 could be viewed as subcombination-combination. If so then the requirements for restriction set forth in M.P.E.P. §806.05(c) must be met. In setting forth the restriction requirement the examiner asserted that the inventions of claims 1 and 11 are unrelated. The examiner's assertion is not tenable because the embodiment wherein disruption is conducted in a microchamber (claim 11) is within the scope of claim 1.

It is necessary that subcombinations not overlap in scope in order for a restriction requirement to be proper. Claims 2 and 3 which are placed in separate groups overlap in scope as it is readily apparent that that gold nanorods of length 10 to 500 nm could have diameters such that the limitation of claim 2 is met.

Implicit in the discussion of combination-subcombination presented in M.P.E.P. §806.05(c) is that there are claims presented limited to particular subcombinations. This situation is not present in the instant claims.

Even if one were to accept that claims 1 and 11 are restrictable from each other it is not tenable to assert that they are linking claims because the dependant claims do not define inventions having mutually exclusive scope.

Applicant's traversal regarding Claims 23-27 (XIX-XXI) are persuasive.

Applicant requests that the restriction of claims 1-10 from 11-22 be withdrawn.

**DECISION**

The petition is **GRANTED-IN-PART** for the reasons set forth above. The restriction of claims 1-10 and 11-22 is withdrawn as is the restriction between claims 2-10 and 12-22. The restriction between claims 23-26 is withdrawn. However, the restriction between the methods of claims 1-22 and the apparatus of claims 23-27 is maintained.

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.

Jacqueline M. Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**SLATER & MATSIL, L.L.P.**
**17950 PRESTON ROAD**
**SUITE 1000**
**DALLAS, TX 75252**

MAILED
JUL 22 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Brueckner et al. | : | DECISION ON PETITION |
| Application No. 11/838,553 | : | TO WITHDRAW |
| Filed: August 14, 2007 | : | FROM RECORD |
| Attorney Docket: QM000017 | : | |

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 17, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Slater & Matsil LLP were revoked as power of attorney by the assignee of the patent application on June 21, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOHN S. ECONOMOU
202 MAMARONECK AVE., THIRD FLOOR
WHITE PLAINS NY 10601

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. |
|---|---|---|---|---|
| 11/838,571 | 08/14/2007 | Tomoyuki IRIZUMI | 313494US2 | 6957 |

7590 06/17/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| MOONEY, MICHAEL P |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2883 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/17/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nani Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
06/16/2009 0030071247

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXXX1002

Adjustment date: 06/16/2009 NFARMER
08/15/2007 INTEFSW 00001538 11838571
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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Alexandria, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

**COPY MAILED**

OCT 26 2009

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| William Kress Bodin et al. | : |
| Application No. 11/838,610 | : DECISION ON PETITION |
| Filed: August 14, 2007 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No: N0484.70497US01 | : |

This is a decision on the petition under 37 CFR 1.78(a)(3) filed March 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 10/756,159 filed January 13, 2004.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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 amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states 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.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) or a substitute amendment (complying with the provisions of 37 CFR 1.121 and in compliance with 37 CFR 1.78(a)(2)(i)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40I Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

COPY MAILED
JAN 19 2010

In re Application of
William Kress Bodin et al.
Application No. 11/838,610
Filed: August 14, 2007
Attorney Docket No: N0484.70497US01

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed November 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 10/756,159 filed January 13, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

A petition filed March 13, 2009 was dismissed in a decision mailed October 26, 2009 because the amendment submitted concurrently with the petition as drafted was unacceptable and, therefore, was not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment was physically part of the petition and, as such, did not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states 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.

Comes now petitioner with the instant renewed petition and an amendment to amend the specification to include the reference to the prior-filed application required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2).

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2176 for appropriate action on the amendment filed November 17, 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 application.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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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 |
|---|---|---|---|---|---|---|
| 11/838,610 | 08/14/2007 | 2176 | 1000 | N0484.70497US01 | 20 | 3 |

**CONFIRMATION NO. 7038**

**CORRECTED FILING RECEIPT**

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

*OC000000039524879*

Date Mailed: 01/07/2010

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)**

William Kress Bodin, Austin, TX;
Michael John Burkhart, Round Rock, TX;
Daniel G. Eisenhauer, Austin, TX;
Daniel Mark Schumacher, Pflugerville, TX;
Thomas J. Watson, Pflugerfville, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number 23628

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/756,159 01/13/2004 PAT 7,287,221

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/838,610**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Differential Dynamic Content Delivery With Text Display In Dependence Upon Sound Level

**Preliminary Class**

715

## 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. |
|---|---|---|---|---|
| 11/838,630 | 08/14/2007 | Robert R. Imark | 200700933-1 | 7075 |

7590 01/11/2010
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

| EXAMINER |
|---|
| LEE, THOMAS C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2115 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/11/2010 | ELECTRONIC |

## DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☑ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management



FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,630 | 08/14/2007 | Robert R. Imark | 200700933-1 | 7075 |

7590 02/23/2010
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

| EXAMINER |
|---|
| DU, THUAN N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2116 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/23/2010 | 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.

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVIS WRIGHT TREMAINE LLP/Los Angeles
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES, CA 90017-2566

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Henry C. Lin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7585838 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/838,631 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,632 | 08/14/2007 | Yoichiro SAKO | 313473US8 | 7079 |

7590 08/28/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| TEJANO, DWIGHT ALEX C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 08/28/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 08/28/2009 BPOWELL
08/15/2007 INTERW 00002049 11838632
02 FC:1111 -500.00 OP
04 FC:1202 -500.00 OP

Adjustment date: 08/28/2009 BPOWELL
08/15/2007 INTERW 00002049 11838632
-500.00 OP
-500.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
Assefa et al. :
Application No. 11/838,663 :
Filed: August 14, 2007 :
Attorney Docket No. YOR920070073US1 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which was mailed September 30, 2009. 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 December 31, 2009. A Notice of Abandonment was mailed on January 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1510 issue fee and $300 publication fee, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

If appropriate a change of address should be submitted. 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 the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: IBM CORPORATION, T.J. WATSON RESEARCH CENTER
1101 Kitchawan Road
Yorktown Heights, NY 10598

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**AT&T CORP.**
**ROOM 2A207**
**ONE AT&T WAY**
**BEDMINSTER NJ 07921**

**COPY MAILED**

OCT 28 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jafarkhani et al. | : | |
| Application No. 11/838,668 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | |
| Attorney Docket No. ATT/1999-0256 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 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 August 15, 2008, as required by the Notice of Allowance and Fee(s) Due mailed May 15, 2008. Accordingly, the date of abandonment of this application is August 16, 2008. A Notice of Abandonment was mailed September 9, 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 $1,510.00 and the publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/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

DAVIS WRIGHT TREMAINE LLP/Los Angeles
865 FIGUEROA STREET
SUITE 2400
LOS ANGELES, CA 90017-2566

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Henry C. Lin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7605240 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/838,672 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

**COPY MAILED**

OCT 13 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,534,779 | : | |
| PROKAI et al. | : | LETTER REGARDING PATENT |
| Issue Date: May 19, 2009 | : | TERM ADJUSTMENT AND |
| Application No. 11/838,676 | : | NOTICE OF INTENT TO ISSUE |
| Filed: August 14, 2007 | : | CERTIFICATE OF CORRECTION |
| Attorney Docket No. UF-340XCDCD1 | : | |

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed April 7, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **GRANTED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **zero (0) days**.

On February 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application with an initial patent term adjustment of 31 days. On April 7, 2009, patentees submitted the instant comment. Thereafter, on May 19, 2009, the above-identified application matured into U.S. Patent No. 7,534,779, with a revised patent term adjustment of 31 days.

Patentees disclose that they believe that the patent term adjustment should be corrected to zero (0) days for failing to respond within three months of the Notice to File Corrected Application Papers mailed on October 2, 2007. Patentees assert that they should be assessed a delay of 34 days pursuant to 37 CFR 1.704(b).

A review of the application history reveals that patentees are correct. On October 2, 2007, the Office mailed a Notice to File Corrected Application Papers. On February 5, 2008, patentees filed a reply, accompanied by a request for an extension of time for response within the third month (and fee). Thus, patentees failed to engage in reasonable efforts to conclude processing of the application. The period of adjustment should have been reduced by 34 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Corrected Application Papers, January 3, 2008, and ending on the date the reply was filed, February 5, 2008. See 37 CFR 1.704(b).

In view thereof, the patent should have issued with a revised patent term adjustment of **zero (0) days**.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero (0) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,534,779 B2

DATED : May 19, 2009

INVENTOR(S) : Prokai 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 (31) days

Delete the phrase "by 31 days" and insert – by 0 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov
DIW Apr-06

INGRASSIA FISHER & LORENZ, P.C. (FS)
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

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APR 30 2008

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Krellner and Maniktala | : DECISION REFUSING STATUS |
| Application Number: 11/838696 | : UNDER 37 CFR 1.47(a) |
| Filing Date: 08/14/2007 | : |
| Attorney Docket Number: | : |
| TS10111ZC (038.0332) | : |

This is in response to the petition under 37 CFR 1.47(a) filed on February 22, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on August 14, 2007, without an executed oath or declaration.

Accordingly, on August 22, 2007, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on February 22, 2008, a four (4)-month extension of time and fee were filed, along with the present petition and a declaration under 37 CFR 1.63 naming Jan Krellner and Sanjaya Maniktala as joint inventors, signed by joint inventor Krellner on behalf of himself and non-signing joint inventor Maniktala.

Petitioners assert, via the declaration of Missy Hale, that the declaration and assignment were sent via email and by the U.S. mail to the non-signing inventor's last known address. In one email, the non-signing inventor stated that he would mail the signed declaration "over the weekend", but that the non-signing inventor did not sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that the inventor was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Rather, the showing of record is that only the declaration and an assignment were sent to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor(s) for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor(s) refuse(s) in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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[1] MPEP 409.03(d).

If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail are unsuccessful, petitioners will have established that, despite diligent efforts, the non-signing inventor could not be reached.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Aug-08

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7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

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AUG 20 2008

| | |
|---|---|
| In re Application of | : |
| Krellner and Maniktala | : DECISION ACCORDING STATUS |
| Application Number: 11/838696 | : UNDER 37 CFR 1.47(a) |
| Filing Date: 08/14/2007 | : |
| Attorney Docket Number: | : |
| TS10111ZC (038.0332) | : |

This is in response to the renewed petition under 37 CFR 1.47(a) filed on June 30, 2008.

The petition is **GRANTED**.

The above-identified application was filed on August 14, 2007, without an executed oath or declaration.

Accordingly, on August 22, 2007, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on February 22, 2008, a four (4)-month extension of time and fee were filed, along with the initial petition and a declaration under 37 CFR 1.63 naming Jan Krellner and Sanjaya Maniktala as joint inventors, signed by joint inventor Krellner on behalf of himself and non-signing joint inventor Maniktala. On April 30, 2008, the petition was dismissed.

On June 30, 2008, the subject renewed petition was filed. Petitioners assert, via the declarations of Missy Hale and registered patent practitioner Daniel Pote, that a copy of the application papers was mailed to the last known address of the non-signing inventor. Petitioners further assert, via the declaration of practitioner Pote, that no response has been received from the non-signing inventor.

Petitioners have shown that the non-signing inventor, Sanjaya Maniktala, has refused to join in the filing of the above-

identified application after having been sent a copy of the application papers, including the declaration naming him as a joint inventor along with Jan Krellner.

As such, the showing of record is that the non-signing inventor has constructively refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

Sanjaya Maniktala
1161 E. Washington Avenue
Gilbert AZ 85234

COPY MAILED

AUG 20 2008

In re Application of
Krellner et al.
Application No. 11/838,696
Filed: August 14, 2007
For: MODE TRANSITIONING IN A DC/DC CONVERTER USING A CONSTANT DUTY CYCLE DIFFERENCE

Dear Mr. Maniktala:

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

INGRASSIA FISHER & LORENZ, P.C. (FS)
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

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JUL 16 2009

**OFFICE OF PETITIONS**

**IRELL & MANELLA LLP**
**1800 Avenue of the Starts**
**Suite 900**
**Los Angeles, CA 90067**

| | | |
|---|---|---|
| In re Application of | : | |
| Troy Adams, et al. | : | |
| Application No. 11/838,707 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 159830-0003 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Christopher A. Vanderlaan 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 Troy Adams at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Troy Adams**
**8687 Melrose Avenue**
**Suite G-292**
**West Hollywood, CA 90069**

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 |
|---|---|---|---|
| 11/838,707 | 08/14/2007 | Troy Adams | 159830-0003 |

**CONFIRMATION NO. 7208**

**POWER OF ATTORNEY NOTICE**

29000
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

*OC000000036945505*

Date Mailed: 07/15/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 06/24/09

Patent No. : 7541163 B2
Ser. No. : 11/838,730
Inventor(s) : PATTEN, PHILLIP A.
Issued : 06/02/09
Title : **INTERFERON-ALPHA POLYPEPTIDES AND CONJUGATES**
Docket No. : **0280.312US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

**MAXYGEN, INC.**
**INTELLECTUAL PROPERTY DEPARTMENT**
**515 GALVESTON DRIVE**
**REDWOOD CITY CA 94063**

LMN

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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**MAXYGEN, INC.**
**INTELLECTUAL PROPERTY DEPARTMENT**
**515 GALVESTON DRIVE**
**REDWOOD CITY CA 94063**

MAILED

AUG 21 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,541,163 | : | |
| Issue Date: June 2, 2009 | : | |
| Application No. 11/838,730 | : | ON PETITION |
| Filed: August 14, 2007 | : | |
| Attorney Docket No. 0280.312US | : | |

This is a decision on the petition filed July 7, 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 Terri Williams at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Chris Bottorff
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

PTO/SB/17 (10-08)
Approved for use through 06/30/2010 OMB 0651-0032
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

*Effective on 12/08/2004.*
*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*

# FEE TRANSMITTAL
## For FY 2009

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 130.00

**Complete if Known**

| | |
|---|---|
| Application Number | 11838730- Patent No. 7541163 |
| Filing Date | 8/14/07 - Issue Date 6/2/09 |
| First Named Inventor | Phillip A. Patten |
| Examiner Name | Jegatheesan Seharaseyon |
| Art Unit | 1647 |
| Attorney Docket No. | 0280.312US |

FAX RECEIVED JUL - 7 2009 OFFICE OF PETITIONS

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 50-0990 Deposit Account Name: Maxyen, Inc.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

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.

**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES Fee ($) | FILING FEES Small Entity Fee ($) | SEARCH FEES Fee ($) | SEARCH FEES Small Entity Fee ($) | EXAMINATION FEES Fee ($) | EXAMINATION FEES Small Entity Fee ($) | Fees Paid ($) |
|---|---|---|---|---|---|---|---|
| Utility | 330 | 165 | 540 | 270 | 220 | 110 | |
| Design | 220 | 110 | 100 | 50 | 140 | 70 | |
| Plant | 220 | 110 | 330 | 165 | 170 | 85 | |
| Reissue | 330 | 165 | 540 | 270 | 650 | 325 | |
| Provisional | 220 | 110 | 0 | 0 | 0 | 0 | |

**2. EXCESS CLAIM FEES**

| Fee Description | Fee ($) | Small Entity Fee ($) |
|---|---|---|
| Each claim over 20 (including Reissues) | 52 | 26 |
| Each independent claim over 3 (including Reissues) | 220 | 110 |
| Multiple dependent claims | 390 | 195 |

Total Claims _____ - 20 or HP = _____ x _____ = _____ (Extra Claims, Fee ($), Fee Paid ($))

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims _____ - 3 or HP = _____ x _____ = _____ (Extra Claims, Fee ($), Fee Paid ($))

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is $270 ($135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ - 100 = _____ (Extra Sheets) / 50 = _____ (Number of each additional 50 or fraction thereof, round up to a whole number) x _____ (Fee ($)) = _____ (Fee Paid ($))

**4. OTHER FEE(S)** Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount) _____

Other (e.g., late filing surcharge): Processing Fee 130.00

| SUBMITTED BY | | | |
|---|---|---|---|
| Signature | | Registration No. (Attorney/Agent) 35,235 | Telephone (650) 298-5300 |
| Name (Print/Type) | NORMAN J. KRUSE | | Date |

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 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.*

08/24/2009 LDIEP1 00000007 500990 11838730
Sale Ref: 00000009 DA#: 500990 11838730
01 FC:1808 130.00 DA

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**MORRISON & FOERSTER LLP**
**12531 HIGH BLUFF DRIVE**
**SUITE100**
**SAN DIEGO, CA 92130-2040**

MAILED

JUL 01 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Daria Mochly-Rosen, et al. | : | |
| Application No. 11/838,732 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 578422000402 | : | FROM RECORD |
| | : | |

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 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James J. Mullen, III 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 communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Leland Stanford Junior University**
**Board of Trustees**
**900 Welch Road**
**Suite 350**
**Palo Alto CA 94304**

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/838,732 | 08/14/2007 | Daria MOCHLY-ROSEN | 578422000402 |

**CONFIRMATION NO. 7242**

**POWER OF ATTORNEY NOTICE**

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

*OC000000042313968*

Date Mailed: 06/28/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

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.

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kirn et al. | : | ON PETITION |
| Application No. 11/838,757 | : | |
| Filed: August 14, 2007 | : | |
| Atty Docket No. KIRN:002USC1 | : | |

This is in response to the "PETITION" filed April 4, 2008, requesting that the above-referenced application be accorded a filing date of August 14, 2007, pursuant to the provisions of 37 CFR 1.57(a). This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

To the extent the instant petition requests a filing date of August 14, 2007 with no drawings present in the application, the petition is **GRANTED**.

Application papers in the above-identified application were deposited on August 14, 2007. However, on October 22, 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 and that certain required items were missing from the filing. However, the Notice did not state that drawings were missing. On December 26, 2007, applicants filed a

[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.

preliminary amendment and response to the Notice. Then, on February 7, 2008, the Office of Patent Application Processing mailed applicants a WITHDRAWAL OF PREVIOUSLY SENT NOTICE and a corrected NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION, advising 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 state that the drawings were inadvertently omitted, that present on the filing date of the application was a claim under 37 CFR 1.78 for the benefit of prior-filed nonprovisional application No. 10/524,932, and that the inadvertently omitted drawings are completely contained in the prior-filed application. Applicants request that the claim under 37 CFR 1.78 be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted drawings. The petition includes the omitted drawings and an amendment submitting the omitted drawings.

Petitioner's arguments and evidence have been considered. However, it is controlling that a review of the application confirms that as filed the application contained at least one method claim. MPEP 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g), if an application is entitled to a filing date, the mailing of a Notice of Omitted Items will permit *inter alia*:

> If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional,

> nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a). The amendment should be submitted in response to the Office action and must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

No petition is required. The amendment to include the inadvertently omitted drawings will be considered by the examiner.

To the extent the instant petition requests a filing date of August 14, 2007 with no drawings present in the application, the petition is granted.

Given the basis for granting this petition, the petition fee is being refunded to Deposit Account No. 50-1212, as authorized.

The Office of Patent Application Processing (OPAP) has been advised of this decision. Pursuant to this decision, the application has been referred to the Office of Patent Application Processing for:

- **correction of the filing date to August 14, 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 April 4, 2008 will be determined by the examiner. In this regard, it is noted that the requirements of 37 CFR 1.57(a) have been met. In addition, the disclosure of the prior-filed application was explicitly incorporated by reference on filing of the application. See 37 CFR 1.182. An amendment to enter drawings properly incorporated by reference pursuant to 37 CFR 1.57(a) or 37 CFR 1.182 does not raise a new matter issue without respect to those drawings.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney, Nancy Johnson at (571) 272-3219.

Anthony Knight
Supervisor
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,782 | 08/14/2007 | Darrell Scott Costa | 2725-34804 | 7314 |

| EXAMINER |
|---|
| KOONTZ, TAMMY J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3974 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/18/2008 | PAPER |

7590 07/18/2008
Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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Adjustment date: 07/21/2008  KKING1
08/15/2007 INTEFSW  00003021 11838782
02 FC:1111                    -500.00 OP
04 FC:1202                    -450.00 OP
05 FC:1201                   -5200.00 OP


Refund Ref:
07/21/2008          0030058765
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Credit Card Refund Total:      $6150.00

Am Exp..: XXXXXXXXXXX1004
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FORM PET651G (Rev. 08/07)

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**BOSTON MA 02108**

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OCT 1 2 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Martin Annis | : | |
| Application No. 11/838,783 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. ANNII40888 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy 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 2882 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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**MILA KASAN, PATENT DEPT.**
**APPLIED BIOSYSTEMS**
**850 LINCOLN CENTRE DRIVE**
**FOSTER CITY CA 94404**

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| | | |
|---|---|---|
| In re Application of | : | |
| Ronald J. Graham, et al. | : | |
| Application No. 11/838,793 | : | ON PETITION |
| Effective Date: August 14, 2007 | : | |
| Attorney Docket No. 5290C1 US | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 9, 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 December 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee, search fee, the examination fee and pre amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement 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 Terri Williams at (571) 272-2991.

The application file is being referred to the Office of Patent Application Processing for further processing, including charging additional fees for any remaining multiple dependent claims and claims over 20 as authorized on page 2 of the petition.

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

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MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY CA 94404

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| | | |
|---|---|---|
| In re Application of | : | |
| Graham, et al. | : | |
| Application No. 11/838,793 | : | ON PETITION |
| Filed: December 17, 2007 | : | |
| Attorney Docket No.: 5290C1US | : | |

This is in response to the "Petition under 37 CFR 1.182 for Restoration of Filing Date" filed March 27, 2009. The petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on August 14, 2007. However, on October 9, 2007, the Office of Patent Application Processing mailed applicant a "Notice of Incomplete Non-provisional Application, notifying applicant that the application papers has not been accorded a filing date because the application was deposited without drawings. In response on December 17, 2007, applicant timely filed a set of drawings, along with other items. In response thereto, the Office changed the filing date accorded the application to December 17, 2007.

By the instant petition, applicant requests that the application filing date be restored to August 14, 2007, and asserts that the application was complete on that date because, notwithstanding the omission of the drawings, because the application contained a prior benefit claim under 37 CFR 1.55 or 1.78 to an application which contained the drawings.

Petitioner's argument and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one composition claim. The Manual of Patent Examining Procedure, Section 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 application was entitled to a filing date without drawings present in the application.

Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g), if an application is entitled to a filing date, the mailing of a Notice of Omitted Items will permit *inter alia*:

---

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or 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 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.

> [i] 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, non-provisional, 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 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 drawings(s) will be considered by the examiner.

The petition is granted to the extent the instant petition requests a filing date of August 14, 2007, with no drawings present in the application.

Given the basis for granting this petition, the petition fee of $400.00 is being refunded.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing for:

- correction of the filing date to August 14, 2007;
- for indication in Office records, as appropriate that "0" sheets of drawings were present on filing, and
- for issuance of a filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

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| | | |
|---|---|---|
| In re Application of | : | |
| Robert J. MAIGRET | : | |
| Application No. 11/838,860 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. **CHTV-0005-P01** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2010.

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).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **REVVER INC.**
**9255 SUNSET BLVD. STE. 1010**
**WEST HOLLYWOOD CA 90069**

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**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

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|---|---|---|
| In re Application of | : | |
| MAIGRET, Robert J. et al. | : | |
| Application No. 11/838,860 | : | DECISION ON PETITION |
| Filed: August 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. CHTV-0005-P01 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must 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 Lewkowicz on behalf of all attorneys of record who are associated with customer No. 43520. All attorneys/agents associated with the Customer Number 45320 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 Robert J. Maigret, Jr. at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ROBERT JOSEPH MAIGRET, JR.**
**2480 LINDSAY LANE**
**LOS ANGELES CA 90039**

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**JAMES M. VAN BUSKIRK**
**2805 EAAST DENALI DRIVE**
**DEER PARK TX 77536**

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| | | |
|---|---|---|
| In re Application of | : | ON PETITION |
| Langley, Glenn Ray | : | |
| Application No. 11/838,868 | : | |
| Filed: August 14, 2007 | : | |
| Attorney Docket No. GL0706PAT | : | |

This is a decision on the petition under 37 CFR 1.181, filed July 31, 2009, 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 non-final Office action mailed December 11, 2008, which set a shortened statutory period for reply of three (3) months. A reply was due on or before March 11, 2009. A Notice of Abandonment was mailed on July 7, 2009.

Petitioner states that the reply was in fact timely filed. Petitioner explains that the incorrect application number was listed on the transmittal letter submitted on March 11, 2009. Rather than the instant application number, the transmittal letter reflected Application No. 11/836,868.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn.

A review of Application No. 11/836,868 reveals that a reply was timely submitted by the petitioner on March 11, 2009. Further, in reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file. The papers have been relocated to the proper application.

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 Technology Center AU 3632 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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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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In re Patent No. 7,441,831 :
Issue Date: October 28, 2008 :
Application No. 11/838,872 : ON PETITION
Filed: August 14, 2007 :
Patentee(s): Ari Caliskan, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed February 22, 2009, to add an additional name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

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.

Since the address given in the present request differs from the address of record, a courtesy copy of this decision is being mailed to the address in the request; thereafter, all future correspondence will be mailed to the address of record until otherwise instructed.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Larry W. Miller
Miller Law Group, PLLC
25 Stevens Avenue
West Lawn, PA 19609

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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**Austin Bonderer, Esq.**
**644 Brookwood Street**
**Brea, CA 92821**

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| | | |
|---|---|---|
| In re Application of | : | |
| Danny Cancian | : | |
| Application No. 11/838,883 | : | DECISION ON PETITION |
| Filed: August 15, 2007 | : | TO WITHDRAW |
| Attorney Docket No. CANCIAN-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 October 31, 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 D. Austin Bonderer on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to assignee at the address of record. A courtesy copy of this decision will be mailed to the address noted on the request. If this person desires to receive future correspondence regarding this application, then the proper power of attorney or change of address documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: CBW Management Limited
110 Rimu Road
Paraparaumu, New Zealand
5032

cc: Ian Barour
P.O. Box 1538
Paraparumu Beach, New Zealand
5032

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/838,883 | 08/15/2007 | Danny Cancian | CANCIAN-01 |

**CONFIRMATION NO. 7505**

**POWER OF ATTORNEY NOTICE**

59709
AUSTIN BONDERER, ESQ.
644 BROOKWOOD ST.
BREA, CA 92821

*OC000000033321971*

Date Mailed: 11/26/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

| | | |
|---|---|---|
| In re Application of | : | |
| Merszei | : | |
| Filed: August 15, 2007 | : | ON PETITION |
| Application No. 11/838,918 | : | |
| Atty. Dkt. No.: PUS-N001-267 | : | |

This decision is in response to the petition under 37 CFR 1.57(a), filed September 19, 2007 in response to the Notice of Incomplete Nonprovisional Application (Notice), mailed August 27, 2007. In addition, this matter is, *sua sponte*, properly treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of August 15, 2007.

The application was received August 15, 2007. The Notice mailed August 27, 2007 indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings, as required per 35 USC 113.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee). The Notice set a two month non-extendible period of time for reply.

**DECISION UNDER 37 CFR 1.53(e)**

In accordance with 37 CFR 1.53(e)(2), any request for review of a notification pursuant to 37 CFR 1.53(e)(1), or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of August 15, 2007.

Thus, the instant petition is unnecessary as the instant application was otherwise entitled to a filing date under 37 CFR 1.53(b). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on August 15, 2007, without drawings as part of the original disclosure.

In view thereof, the petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of August 15, 2007 is hereby **GRANTED**.

## DECISION UNDER 37 CFR 1.57

The provisions of 37 CFR 1.57(a) provide that "if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to

the inadvertently omitted portion of the specification or drawing(s)."

In accordance with 37 CFR 1.57(a)(3), "[i]f an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f)."

As the instant application is entitled to a filing date, petition under 37 CFR 1.57 is not necessary.

Accordingly, the petition under 37 CFR 1.57(a) is hereby **DISMISSED AS MOOT**.

The amendment concerning the drawings submitted with the instant petition will be addressed in due course by the examiner of record in accordance with 37 CFR 1.57(a)(1).

No fee is due in connection with this matter. Petitioners may request a refund of the $400.00 petition fee previously submitted by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 15, 2007 using only those application papers present on that date.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Charles Pearson
Director
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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SEP 24 2008

In re Application of
Che, et al.
Filed: August 15, 2007
Application No. 11/838,922
Atty. Dkt. No.: Q100442

: ON PETITION

This decision is in response to the petition "PETITION UNDER 37 C.F.R. § 1.57(a)," filed December 26, 2007.

The application was filed August 15, 2007. On October 27, 2007, the Office of Patent Application processing mailed a Notice of Omitted Items in a Nonprovisional Application (Notice). The Notice indicated that the application had been accorded a filing date, but that Figure 20, described in the specification, appeared to have been omitted from the application. The Notice set a two-month extendible period for reply.

In response to the Notice, Applicants submitted the instant petition seeking to maintain the August 15, 2007 filing date and a copy of the drawings filed August 15, 2007. Applicants seek to have the copy of the drawings submitted herewith entered into the record, and, further, argue that the application as filed included 10 sheets of drawings, which included the omitted figure.

Applicants have submitted a copy of an acknowledgement receipt whereby the USPTO acknowledged received of 24 pages of drawings.

A review of the official application file, as well as an internal audit of the papers submitted via the Electronic Filing System (EFS), confirms that while 24 sheets of drawings were submitted August 15, 2007. The 20th drawing sheet, which presumably should have contained Figure 20, was actually blank.

As to the petition under 37 CFR 1.57(a) , applicant is advised that a petition is not necessary in this instance to add the omitted figures.

The MPEP 601.01(g) states that:

> "If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawings was inadvertently omitted from the application and is completely

contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawings pursuant to 37 CFR 1.57(a). Such amendment should be by way of a preliminary amendment and the preliminary amendment must be submitted within 2 months from the date of the "Notice of Omitted Item(s)." The amendment should be identified as an amendment pursuant to 37 CFR 1.57(a) and must comply with the requirements of 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17. The application will maintain the filing date as of the date of deposit of the original application papers in the USPTO. The original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the original date of deposit. The 2-month period is not extendable under 37 CFR 1.136. 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)."

Accordingly, where an application has been accorded a filing date, a petition is not necessary to add the omitted portion of the specification or drawing(s). Instead, if applicants desire to have the omitted figure entered into the record, applicants are advised that a preliminary amendment to the specification under 37 CFR 1.57(a) should be promptly submitted prior to the first Office action on the merits to avoid delays in prosecution.

The instant application was accorded a filing date. Thus, no petition was required. In view of the fact that the petition was not necessitated by an error on the part of this Office, the petition fee will not be refunded.

The application will be returned to the Office of Patent Application Processing, with a filing date of August 15, 2007, using the application papers filed on that date.

Telephone inquiries concerning this matter should be directed Petitions Attorney Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/838,961 | 08/15/2007 | Robert GLINECKE | P32184C4 | 7631 |

7590 10/27/2009
GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

| EXAMINER |
|---|
| YOUNG, MICAH PAUL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1618 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/27/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia PA 19406-0939

| | |
|---|---|
| In re Application of: | : |
| Glinecke et al. | : |
| Serial No.: 11/838,961 | : PETITION DECISION |
| Filed: August 15, 2007 | : |
| Attorney Docket No.: **P32184C4** | : |

This is in response to the petition under 37 CFR § 1.181, filed February 25, 2009, requesting that the finality of the Office action of January 28, 2009 be withdrawn.

The delay in responding to this petition is regretted but it only recently came to the attention of the Deciding Official.

BACKGROUND

The examiner mailed a non-final Office action of April 4, 2008 wherein pending claims 1-6 were rejected under 35 USC 103 (a) as being unpatentable over the combined disclosures of Poole et al. in view of Okada et al. and vice versa.

On October 3, 1008, applicants submitted an amendment, in which claims 1-6 were canceled and new claims 7-12 were added. Applicants also provided remarks addressing the rejection.

On January 28, 2009, the examiner mailed a final Office action. New claims 7-12 were rejected under 35 USC 103 (a) as being unpatentable over the combined disclosures of Poole et al. in view of Conte et al.

In response thereto, applicants filed this petition on February 25, 2009, requesting that the finality of the Office action of January 28, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants point out "Under the proper procedures set forth in the MPEP, although second or subsequent Office Actions may be made final, it is not proper for an Office Action to be made final when the Examiner "introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." See MPEP 706.07 (a).

Applicants argue the "only rejection made in the Office Action dated January 28, 2009 was a rejection under 35 U.S.C. § 103 (a) based on new grounds. This rejection was neither necessitated by amendments to Applicants' claims nor by information provided in an Information Disclosure Statement. Applicants received no opportunity to respond to the rejection under 35 U.S.C. § 103 (a), based on the Examiner's newly cited art, prior to the rejection being made final. Accordingly, the Office Action dated January 28, 2009 was not properly made final."

Applicants' arguments have been carefully considered but they are not persuasive. It appears that the new ground of rejection in the final Office action is, in fact, necessitated by amendment. New claims 7-12 are different from original claims 1-6 examined in the non-final Office action of April 4, 2008. For example, the new claims require that the sustained release matrix is selected for a disintegrating or a non-disintegrating matrix (see last 2 lines of claim 7), which was not previously a limitation in the originally examined claims. Furthermore, the dependent claims have been changed. In original claim 3, it was the "non-modified release matrix" that comprised the polymers listed in that claim. In new claim 9, it is a different layer - a sustained release matrix in a "non-disintegrating matrix" having therein the polymers of original claim 3.

The following excerpt from MPEP § 706.07 is set forth below:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The examiner's rejections of the claims under 35 U.S.C. § 103 (a) in the final Office action were new rejections considering that the examiner did not originally institute said rejection(s) in the non-final Office action. While new rejections are permitted in final Office actions, such new rejections are only proper under certain circumstances according to the provisions set forth in the MPEP; those provisions being, either when applicants' amendment to the claims necessitates such a rejection or when an IDS submitted by applicants necessitates such a rejection, see MPEP citation (*Id.*) In the instant case, the claim amendments of October 3, 2008 did alter the scope of the claims requiring a new search which resulted in a new rejection. In view of the evidence, the final Office action issued January 28, 2009 is not found to be premature nor in error. Consequently, the finality of the Office action will not be withdrawn in favor of applicants.

**DECISION**

The petition is **DENIED**.

The shortened statutory time period for response to the final Office action continues to run three months from the mailing date thereof (January 28, 2009). Extensions of time may or may not be available under the provisions of 37 C.F.R. § 1.136(a).

**Any new or renewed petition must be fled within TWO MONTHS of the mail date of this decision.**

Should there be any questions about this decision please contact Quality Assurance Specialist 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.

Remy Yucel
Director, Technology Center 1600

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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : AIDAN CARL KUNKLE | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594707 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/838,978 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 08/15/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **55** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/838,983 | 08/15/2007 | Young Jae Lee | 8139L-14 (PO060086) | 7675 |

7590 04/22/2009
F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

| EXAMINER |
|---|
| WILSON, ADRIAN S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2835 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/22/2009 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
04/22/2009 0030069162

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1004

Adjustment date: 04/22/2009 NFARMER
08/15/2007 INTEFSW 00007307 11838983
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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**WOOD, HERRON & EVANS, LLP**
**2700 CAREW TOWER**
**441 VINE STREET**
**CINCINNATI OH 45202**

MAILED

JUN 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Steven L. Mitchell | : | DECISION ON PETITION |
| Application No. 11/839,019 | : | TO WITHDRAW |
| Filed: August 15, 2007 | : | FROM RECORD |
| Attorney Docket No. SAMR-02US | : | |

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, 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 Theodore R. Remaklus on behalf of all attorneys of record who are associated with Customer No. 26875.

All attorneys/agents associated with Customer Number 26875 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Steven L. Mitchell
6350 Telegraph Road, Suite 1
Bloomfield Hills, MI 48301